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C O N F I D E N T I A L

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF NORTH CAROLINA

DURHAM DIVISION

LIGGETT GROUP, INC. PLAINTIFF -against- BROWN & WILLIAMSON TOBACCO CORPORATION DEFENDANT BROWN & WILLIAMSON TOBACCO CORPORATION PLAINTIFF - against- LIGGETT GROUP, INC. and GENERIC PRODUCTS CORPORATION. COUNTERCLAIM-DEFENDANTS	CIVIL ACTION NO. C 84-617-D

* * * * *

DEPONENT: JEFFREY A. ECKMANN

DATE: June 27, 1986

REPORTER: MARCIA KUCHENBROD

* * * * *

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I N D E X

E X H I B I T S

EXHIBIT NO. 1	40
EXHIBIT NO. 2	96
EXHIBIT NO. 3	169

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IT IS HEREBY STIPULATED AND AGREED, by and among the attorneys for the respective parties herein, that the sealing and filing of the within deposition be waived; that such deposition may be signed and sworn to before any officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the officer before whom said deposition is taken.

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form, are reserved to the time of trial.

* * * * *

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* * * * *

The deposition of JEFFREY A. ECKMANN was taken on behalf of the Plaintiff, before Marcia Kuchenbrod and Alice Tannenbaum, Notary Publics for the State of Kentucky at Large, in the offices of Woodward, Hobson & Fulton, 2500 First National Tower, Louisville, Kentucky, on June 27, 1986, at 9:20 a.m. Said deposition was taken pursuant to notice for purposes of discovery and as provided by the Federal Rules of Civil Procedure.

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Redacted information not available for public review because of individual privacy concerns.

JEFFREY A. ECKMANN.

called upon oral examination by counsel for the plaintiff, after having been first duly sworn, was examined and deposed as follows:

DIRECT EXAMINATION

BY MR. CONDREN:

Q. Good morning, Mr. Eckmann. My name is James Condren, and I represent Liggett & Meyers in this lawsuit, and I will be asking you a few questions today.

First of all, I just want to thank you for agreeing to be deposed today [redacted], and I appreciate that.

I also want to thank your counsel for delivering those documents last night, going out of his way to do so.

Are you a college graduate, Mr. Eckmann?

A. Yes.

Q. From what institution did you obtain your Bachelors degree?

A. Northern Illinois University.

Q. When was that?

A. 1974.

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Q. What was your Bachelors degree in?

A. Accounting.

Q. What did you do upon completion of your Bachelors degree?

A. I went to work with Price Waterhouse in Milwaukee.

Q. For how many years did you work for Price Waterhouse?

A. Six.

Q. Are you a CPA, Mr. Eckmann?

A. Yes, Wisconsin.

Q. When did you take the exam?

A. 1974.

Q. After you left the employment of Price Waterhouse what did you do?

A. Worked with BATUS in Milwaukee and then Louisville, roughly a year each. Then with Brown & Williamson starting in September 1981, I think -- 2, 1982, I'm sorry.

Q. What did you do in your position or positions with BATUS?

A. I was in the audit department in both Milwaukee and Louisville.

Q. What position did you take with

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Brown & Williamson in September of 1982?

A. Assistant controller.

Q. Why don't you just tell me briefly and generally what your job duties were in that position?

A. I had management responsibilities for general accounting, tax and insurance, and near the end of the period I also had responsibility for marketing finance instead of insurance.

Q. For how long did you hold that position?

A. Three years.

Q. Do you recall exactly which month you left that position in 1985?

A. September.

Q. Who succeeded you in that position at Brown & Williamson?

A. Doug Brown.

Q. What did you do upon leaving that position?

A. Transferred to BATUS.

Q. What position did you take with BATUS?

A. Director of audit.

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Q. And that's the position you currently hold?

A. Yes.

Q. Do you know Mr. Heger, Mr. Eckmann?

A. Yes.

Q. Did he work for Brown & Williamson in 1984 and 1985?

A. Yes.

Q. What position or positions did he hold during that time period?

A. Senior vice-president finance, chief financial officer.

Q. He held that position the entire period of 1984 and 1985?

A. I can't say that for certainty. I don't recall.

Q. Did Mr. Heger at some time change positions from something else to senior vice-president for Brown & Williamson?

MR. PHILLIPS: At any point or during 1984 and 1985?

Q. At any point?

A. I don't recall the timing of it.

Q. What position did he hold prior

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to becoming senior vice-president?

A. In that period I just don't recall the title. There was someone over -- he was reporting to someone else for part of the time I was there, but I don't recall the titles or timing involved.

Q. Did he have a predecessor as senior vice-president for Brown & Williamson?

A. Yes.

Q. Was that Mr. McDonough?

A. Yes.

Q. Do you know when Mr. McDonough took that position as senior vice-president for finance?

A. I don't recall.

Q. Do you know who Mr. McDonough's predecessor was as senior vice-president for finance?

A. Yes. Bob Cummins.

Q. Do you know when Mr. McDonough replaced Mr. Cummins in that position?

A. Not really. Don't recall.

Q. Does Mr. Cummins presently work for BATUS?

A. Yes.

Q. What is his position for BATUS?

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A. Vice-president and controller.

Q. Do you report to him presently?

A. Yes.

Q. Does Mr. McDonough work for BATUS?

A. Yes.

Q. What does he do?

A. He's acting CFO.

Q. Let me show you, Mr. Eckmann, two exhibits which have been previously marked. The first is Wilson 16, which is a summary of standard variable manufacturing costs for generics covering the period 1984 and 1985. The second is Wilson 17, which is a summary of variable margin for generics covering the periods 1984 and 1985.

Let's look at Wilson 16 first, Mr. Eckmann. Have you seen all or any part of this document before? When I ask you that question, I mean to exclude whether you have seen it in preparing for this deposition with your counsel. I'm just asking whether you have seen it --

MR. PHILLIPS: And you're familiar with it?

Q. -- and you're familiar with it because of your job duties as assistant controller

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that you held with Brown & Williamson?

MR. PHILLIPS: These specific documents or documents in this format?

Q. Generally. Well, no, I'm asking about these specific documents?

MR. PHILLIPS: Okay.

A. I don't recall ever having seen this before.

Q. Is the same true with respect to Wilson 17?

A. Yes.

Q. Do you recall having seen documents in this format?

A. Yes relative to Wilson 16. No relative to 17.

Q. Do you have any general understanding as to what the columns on Wilson 16 are designed to represent?

A. Yes.

Q. Can you tell me what the column branch is designed to represent?

A. The branch at which the cigarettes would be estimated to be produced at.

Q. During the period covered by this particular sheet --

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A. Right.

Q. -- or any particular sheet?

A. Yes, that's correct.

Q. Can you tell me what the column present split is designed to represent?

A. The estimated portion of the total manufacture of that particular brand style for that period.

Q. This represents the estimated split as of the time these documents were created?

A. I'm not certain.

Q. But it doesn't necessarily reflect the actual production of these cigarettes?

A. That's my understanding.

Q. Okay. Do you know whether if a particular brand and style or generics appears on this page for a particular time period, whether that cigarette was, in fact, produced during that time period?

MR. PHILLIPS: Does the appearance on this page for branded style mean that it was necessarily produced?

MR. CONDREN: Yes.

A. My understanding of this document is that it's a forecasted document rather

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than an actual historical document.

Q. In other words, it represents an estimate of what is going to be produced during the period covered by the particular sheet?

A. That's my understanding.

Q. If you will look at the August 1985 sheet in Wilson 16 --

MR. PHILLIPS: 182137.

Q. -- and the page preceding that, 91389, and compare that with the September 1985 sheet.

MR. PHILLIPS: 182112.

Q. Yes. In August 1985 estimated production figures and cost figures are broken down into the styles branded, blended, filter and superior, whereas the September 1985 contains a breakdown of those four only for blended.

MR. PHILLIPS: Wait.

A. I'm not sure I follow.

MR. PHILLIPS: Yeah. I object to the form. I don't --

MR. CONDREN: I haven't asked the question yet. I'm just trying to --

MR. PHILLIPS: I know, but I think what you said is incorrect. It wasn't --

A. Could you say that again,

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please?

Q. In the September 1985 sheet I don't see any breakdown for branded, filter and superior generics --

MR. PHILLIPS: Okay.

Q. -- whereas there is such a breakdown in August 1985. My first question, Mr. Eckmann, is do you have an understanding as to what those terms mean, branded, blenced, filter and superior?

A. Yes.

Q. Can you tell me what that is?

A. Those were brand styles that we were producing.

Q. Were there --

A. Or I would say they are brand styles that we had. I don't know if they were produced or not.

Q. Were there differences that you could specify among those brand styles in terms of the physical components of the cigarette or the packaging?

A. I have no knowledge of that.

Q. Do you know whether Brown & Williamson continued to manufacture blended -- excuse me -- branded, filter and superior cigarettes after

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August 1985?

A. I don't recall.

Q. Do you have any understanding as to what the columns on Wilson 17 are designed to represent, all of them or any of them?

A. I have not seen the document before, but the descriptions are -- the columns are fairly descriptive in terms of normal terminology at Brown & Williamson.

Q. Can you tell me what your understanding is as to the term leaf LIFO adjustment as it's normally used at Brown & Williamson?

MR. PHILLIPS: And not necessarily concerning this specific use of the term, but the term as it is used at Brown & Williamson generally?

MR. CONDREN: Yes.

A. My understanding is that it is the adjustment to adjust leaf costs to current costs.

Q. From what measure of cost is that adjustment made?

A. From moving book average.

Q. What is moving book average?

A. That really wasn't in my area, and I'm not sure I could give you an accurate

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description.

Q. Do you have a general understanding as to the meaning of the phrase freight, cartage and insurance as it's used generally at Brown & Williamson?

MR. PHILLIPS: And not necessarily as it's reflected on this document?

MR. CONDREN: Correct.

A. Yes, a general understanding.

Q. Can you tell me what that understanding is?

A. The largest component is the freight to get product from the factory to warehouses and warehouses to customers.

Q. These are freight costs incurred for finished goods?

A. Right.

Q. Does freight, cartage and insurance include any storage costs incurred at the warehouses you just referred to?

MR. PHILLIPS: Objection to form. You can answer.

Q. You can answer.

A. I'm not certain.

Q. In 1984 and 1985 did Brown &

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Williamson incur storage costs at those warehouses?

A. I don't have a direct knowledge of that.

Q. Did Brown & Williamson rent those warehouses during 1984 and 1985?

MR. PHILLIPS: Objection to form. What are you referring to when you say those warehouses?

MR. CONDREN: The warehouses where finished goods are stored?

MR. PHILLIPS: Prior to --

MR. CONDREN: Prior to their being received by the customer?

MR. PHILLIPS: Or prior to their being sent by the factory?

MR. CONDREN: No. I'm talking about after the time they are sent out from the factory --

MR. PHILLIPS: Okay.

MR. CONDREN: -- and before they get to the customer.

MR. PHILLIPS: All right.

A. I'm not familiar with our commercial arrangement with the warehouses.

Q. Do you know whether freight,

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cartage and insurance includes any labor costs incurred by Brown & Williamson with respect to shipping out finished goods and getting them to the customer?

A. I don't know.

Q. Does freight, cartage and insurance include any transportation, labor or storage costs incurred for raw materials before they're incorporated into finished goods?

MR. PHILLIPS: Does that category contain those costs?

MR. CONDREN: Yes.

A. I don't believe so.

Q. Do you know whether the selling price figures that appear on Wilson 17 represent actual selling prices for the cigarettes referenced on these pages?

A. I can't tell for certain.

Q. Do you know whether the selling price figures that appear on Wilson 17 for generics cigarettes include military prices?

A. I don't know.

Q. Do you know whether they include vending prices?

A. As I said, I had never seen this

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document before. I don't know.

Q. Were military prices for any particular brand and style of generic cigarette in 1984 and 1985 the same as the prices for commercial business?

A. I don't know.

Q. Do you know whether the vending prices for generics were the same as those for commercial business?

A. No, sir, I don't know.

Q. In 1984 and 1985 did Brown & Williamson incur any transportation or storage costs with respect to raw materials before they got to the plant to be incorporated into cigarettes?

MR. PHILLIPS: Object to the form. You can answer it.

A. Yes.

Q. Can you describe for me generally what those kinds of expenses were?

A. Could you restate the question?

MR. CONDREN: Read it back, Marcia, please.

(The reporter read the record.)

MR. PHILLIPS: Do you want to take one of those first, or do you want to take both

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of them?

MR. CONDREN: One of those meaning?

MR. PHILLIPS: Transportation or storage I believe are the two.

MR. CONDREN: All right.

Q. Let's start with transportation costs?

A. It's my understanding that we incurred both transportation and storage costs on tobacco prior to manufacture.

Q. Do you know where those costs were reflected in Brown & Williamson's accounting documents in 1984 and 1985?

A. Not with certainty.

Q. Were there transportation costs incurred with respect to raw materials aside from tobacco before they were incorporated into finished goods?

A. I don't know what the terms of our purchase of some of the other materials is with the vendors as to who pays the transportation.

Q. Were there storage costs incurred with respect to any raw materials?

A. Yes.

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Q. In '84 and '85?

A. Yes.

Q. Were they incurred with respect to leaf?

A. Yes.

Q. Do you know where those storage costs for leaf are reflected in Brown & Williamson's accounting documents for 1984 and 1985?

A. I'm not certain.

Q. Are you familiar with a product sold by Brown & Williamson called Coins?

A. Yes.

Q. What is Coins?

A. I would describe it in layman's terms as a low priced vending product.

Q. Is it a generic product?

MR. PHILLIPS: Objection to form.

A. I'm not sure I fully understand the meaning of generic.

Q. Do you know whether in 1984 and 1985 there were any differences in the physical components of Coins as compared to generic cigarettes produced by Brown & Williamson?

MR. PHILLIPS: For example,

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blend, leaf, casing, wrapping, filter, et cetera?

MR. CONDREN: Yes.

A. I'm not familiar with the physical properties.

Q. Was the packaging for Coins different from generic cigarettes made by Brown & Williamson?

A. Yes.

Q. Are you familiar with a product sold by Brown & Williamson called Major Brand?

A. I have heard of Major Brand.

Q. What is Major Brand?

A. It's one of the brand styles of cigarettes that we sold.

Q. Is Major Brand a private label, do you know?

A. I'm not certain.

Q. Do you understand what I mean when I say private label?

A. It would help to have you explain it.

Q. Do you have any comprehension as to what that term means as it's used at Brown & Williamson with respect to cigarettes?

MR. PHILLIPS: Objection to the

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form.

A. I don't think I do have an accurate understanding.

Q. Do you know what the column excise tax on Wilson 17 is designed to represent, Mr. Eckmann?

A. Yes.

Q. Can you tell me what it's designed to represent?

A. The Federal excise tax per thousand cigarettes.

Q. Is this a tax that's paid by Brown & Williamson?

A. Yes.

Q. Do you know generally speaking at what point in the manufacturing and sale process that tax is paid by Brown & Williamson?

A. It's my understanding that it's paid after the cigarettes leave a bonded facility.

Q. Such as a warehouse? Is that what you are referring to?

A. What type of warehouse?

Q. What is a bonded facility? What do you mean by that?

A. I'm not sure who the bond is

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with. In general terms it would be when leaving the factory as I understand it.

Q. The manufacturing facility?

A. Yes.

Q. In 1984 and 1985 did Brown & Williamson give a discount to purchasers of generic cigarettes if they paid the bill within a certain period of time?

A. I don't know.

Q. Are you familiar with an entity called GPC, Mr. Eckmann?

A. I have heard of GPC.

Q. Do you know whether Brown & Williamson has any contractual arrangements with GPC with respect to cigarettes?

A. I don't recall the arrangements.

Q. Do you recall that there are arrangements?

A. I believe we do business with them. I really don't recall the details.

Q. Do you know whether Brown & Williamson in 1985 manufactured a GP label cigarette?

MR. PHILLIPS: A GPC label?

MR. CONDREN: GPC label?

MR. PHILLIPS: Okay.

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A. I can't accurately recall.

Q. Did Brown & Williamson at some point in 1984 or 1985 produce generic cigarettes at its Petersburg facility?

A. I don't recall.

Q. As of December 31, 1985, was the Petersburg manufacturing facility still in operation?

MR. PHILLIPS: As of what date?

MR. CONDREN: December 31st, 1985.

A. I can't say with certainty. I know that was approximately when it was being closed down.

Q. Do you know whether in 1984 or 1985 Brown & Williamson produced cigarettes for exportation at the Petersburg facility?

A. Yes.

Q. As of September 1985 did Brown & Williamson continue to produce cigarettes for exportation at its Petersburg facility?

A. I don't recall.

Q. Did the Petersburg facility cease to operate when export production was no longer taking place there?

A. I don't know. I think it closed

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down after I had left that position. I don't recall the final details.

Q. In 1984 and 1985 did Brown & Williamson do LIFO adjustments for materials other than leaf?

A. Could you define LIFO adjustments?

Q. An adjustment similar to the one that was performed for leaf that was designed to reflect the difference between current cost and moving book average?

A. I don't recall.

Q. Let me show you, Mr. Eckmann, two previously marked exhibits. One is Klein 2, which is the December 1984 Consolidated Trial Balance for Brown & Williamson Tobacco Corporation, and the other of which is Willingham 58, which is the Consolidated Trial Balance of December 1985 for Brown & Williamson Tobacco Corporation.

(Off the record discussion.)

Q. Let's look at Klein 2, first, Mr. Eckmann. Have you reviewed that to your satisfaction?

MR. PHILLIPS: Let's look.

A. Yes.

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Q. Can you identify Klein 2 for me, Mr. Eckmann?

A. It's the Brown & Williamson Consolidated Trial Balance as of 12-31-84.

Q. Have you seen this document before as part of your job duties as assistant controller of general accounting?

A. Yes.

Q. Can you tell me under what circumstances you have seen this document before?

A. I would review it after it's produced.

Q. Who was responsible for producing it?

A. The supervisor of general accounts and voucher audit, which reports to me.

Q. Do you know who that person was who prepared this particular, or produced this particular Consolidated Trial Balance?

A. There were several changes during the period. I believe Jackie Bearden was the incumbent at that time.

Q. Ms. Bearden or whoever prepared Klein 2 reported to you at that time?

A. Yes.

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Q. Can you describe for me the mechanics by which this document was produced?

A. It's a computer summation of accounts in the company's general ledger.

Q. Did Ms. Bearden or whoever produced this document do so as part of his or her job duties working in your department?

A. Yes.

Q. Was there a regular procedure in 1984 and 1985 by which this document was produced every month?

A. Yes.

Q. To your knowledge was that the procedure always followed by the people who prepared this document in general accounting?

A. I believe so, yes.

Q. Whoever prepared Klein 2 was authorized by you to do so as part of his or her job duties?

A. Yes.

Q. Was Klein 2 made in the regular course of Brown & Williamson's business?

A. Yes.

Q. Was this document kept after it was made in the regular course of Brown & Williamson's

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business?

A. The final version would have been retained, yes.

Q. Is this the final version for that month, Klein 2?

MR. PHILLIPS: Final version of Klein 2, or final version of the Consolidated Trial Balance?

Q. Is Klein 2 the final version of the Consolidated Trial Balance for Brown & Williamson for 1984, December?

A. I can't tell.

Q. Was it typical for the Consolidated Trial Balance to go through more than one version in a given month?

A. Particularly at year end, yes.

MR. CONDREN: Will, I assume we have been provided with whatever final versions there were of the Consolidated Trial Balances, and if not, I'd like to have that checked into and see that those are produced.

MR. PHILLIPS: Okay. I will check into whether or not the final versions of Consolidated Trial Balances have been produced.

MR. CONDREN: Okay. I don't

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particularly care about anything less than the final version for any particular month, but I want to make sure that we have the final version for every month.

MR. PHILLIPS: Okay. Well, let me say that I will take it under advisement, but I will check into see if the final versions have been produced to you, okay?

Off the record a second.

(Off the record discussion.)

MR. CONDREN: Back on the record.

Q. Do you know at approximately what time Klein 2 was produced?

A. Would have been approximately the end of January of 1985.

Q. Was it typical in 1984 and 1985 for the Consolidated Trial Balance for any particular month to be generated within a month of the period it covers?

MR. PHILLIPS: Objection to form.

A. Yes.

Q. Did it take longer to generate the December '84 version than the prior months because December '84 was the year end version?

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A. Year end typically takes longer than interim months, yes, sir.

Q. How long did interim months typically take in 1984 and 1985?

A. It would be generated typically in the middle of the month following the month end.

Q. To whom, if anyone, was the Consolidated Trial Balance distributed after it was generated in 1984 and 1985?

MR. PHILLIPS: The final version or --

MR. CONDREN: The final version?

A. I'm sure I don't recall the complete distribution. I would have received a copy, the controller.

Q. Mr. Bacon?

A. Yes.

Q. By the way, Mr. Eckmann, did you report directly to Mr. Bacon when you were assistant controller of general accounting?

A. Yes.

Q. For the entire time period?

A. Yes.

Q. Do you know when Mr. Bacon became controller of Brown & Williamson?

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A. No, I don't know exactly when.

Q. Do you know approximately when, ballpark guess?

MR. PHILLIPS: Ballpark -- whatever your best understanding is. Don't guess.

A. I could easily be five years off.

Q. All right. But in any event, it was at some time prior to your becoming assistant controller of general accounting in September of 1982?

A. That's correct.

Q. To whom else was the Consolidated Trial Balance distributed in 1984 and 1985 on a monthly basis?

A. Supervisor of general accounts and voucher audit.

Q. That was Ms. Bearden among others during that period?

A. That's right. The supervisor of financial reporting.

Q. Who was that in 1984 and 1985?

A. David Graas.

Q. His position is also under the umbrella of general accounting during that time period?

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A. Yes. I don't recall any other people that received it, but there could have been.

Q. Did any of the people who received it use it in performing their job duties?

A. Yes.

Q. Did those people who used it rely on the accuracy of this document in performing their job duties?

A. Yes.

Q. If you look at Page 2, Mr. Eckmann, you'll see an entry under accounts receivable trade, domestic, number 112005. Do you see that?

A. Yes.

Q. Can you tell me what that line item is designed to represent?

A. It's the accounts receivable from our domestic customers as of December 31st, 1984.

Q. What is the next line item designed to represent, Prov. - discount - domestic?

A. It's my understanding that that's the unearned discount on that domestic accounts receivable.

Q. What do you mean by unearned discount?

A. The portion as of 12-31-84 that

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is not owable to the company.

Q. What does the entry Prov. refer to on that line item?

A. What does that word mean?

Q. What does it mean in this context?

A. Provision.

Q. What does that mean?

A. At Brown & Williamson that typically was synonymous with accrual.

Q. Is there a negative sign next to the dollar amount under that line item because that's an offset to accounts receivable?

MR. PHILLIPS: Objection to form.

A. Yes.

Q. Can you tell me what the line item claims under other receivables is designed to represent, the fourth line down, number 112530?

A. Amounts receivable by the company 12-31-84 from claims of various sorts.

Q. What kinds of claims?

A. Excise tax refunds, carrier claims.

Q. Under what circumstances would

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Brown & Williamson be entitled to excise tax refunds in 1984?

A. Returned goods that were destroyed.

Q. Goods returned from customers?

A. Yes.

Q. Do you see the line item underneath that, contingent funds? Can you tell me what that line item is designed to represent?

A. Outstanding advances to employees, principally the sales force.

Q. The next line, draw back of duty in suspension. Can you tell me what that line item is designed to represent?

A. The estimated duty refund that had not yet been claimed related to overseas shipments.

Q. Shipments of Brown & Williamson cigarettes from the United States overseas?

A. That's right.

Q. A few lines down you see the entry sundry cash individuals, others. Can you tell me what that line is designed to represent?

A. I don't recall the detail of that account.

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Q. All right. If you go down under the heading manufactured stocks on that page, you'll see the line item cigarettes. What is the number next to that entry designed to reflect, the approximately 29 million?

A. The inventory value at 12-31-84 of our domestic cigarettes finished goods inventory.

Q. The next line item onto the next page, cigarettes - GOM?

A. The inventory value as of 12-31-84, the cigarettes that we have purchased from others.

Q. What do the initials GOM stand for, do you know?

A. Goods other manufacture I believe.

Q. Under what circumstances did Brown & Williamson purchase goods from other manufacturers in 1984?

MR. PHILLIPS: You mean cigarettes from other manufacturers?

MR. CONDREN: Cigarettes, yes, just limit it to cigarettes.

A. I don't recall the commercial arrangements.

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Q. Were generic cigarettes at all involved in that?

A. I don't believe so.

Q. All right. If you go down a few lines, you will see the entry inventory overhead. Can you tell me what that line item is designed to represent?

A. The estimated inventory value of overhead attributable to the finished goods on hand at year end.

Q. Federal excise tax manufactured goods. the line item under that? What is reported under that line item?

A. It's my understanding that that's the amount of excise tax paid on goods that were in our inventory on 12-31-84.

Q. LIFO reserve excise tax. the line item under that, can you tell me what that approximately $13 million entry is designed to reflect?

A. As of 12-31-84 the reduction of the FIFO value on the line above to a LIFO basis.

Q. The next line item, freight and charges unsold goods, domestic?

A. The estimated freight costs

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associated with the finished goods in inventory at 12-31-84.

Q. These are goods that have not yet been sent from the manufacturing facility?

A. No. They would be goods that have been sent from the manufacturing facility that would be located at a warehouse is my understanding.

Q. I see. But they have not yet gone to the customer?

A. That's my understanding.

Q. Are these expenses captured as well in FC&I?

MR. PHILLIPS: In the freight and goods -- the freight and charges, unsold goods domestic?

MR. CONDREN: Yes.

A. They would be charged as expense when the related goods are sold.

Q. They would be charged to FC&I at that point?

A. Can you tell me which FC&I account you are referring to? There are three or four. Some are liabilities, some are assets, et cetera.

Q. The FC&I expense that goes into

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the calculation of variable margin for particular brands and styles of cigarettes?

A. Yes, that's right.

Q. These expenses are incorporated into that, the expenses that appear on the line item freight and charges, unsold goods, domestic?

A. When the goods are sold, they then appear as an expense in that category.

Q. They appear on the cost sheets at that time?

A. Yes, when the goods are sold.

Q. Do you understand what I mean by the cost sheets, Mr. Eckmann?

A. Yes.

Q. We'll get to those.

A. Okay.

Q. The line item accumulated LIFO, Adj. other below that, approximately $21 million entry? Do you know what that line item is designed to represent?

A. That's the adjustment in 1984 to go to the natural business unit method of accounting for LIFO.

Q. Can you describe for me briefly what that change to the NBU involved if such a thing

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can be done briefly?

A. I will try to explain it briefly. In making that change we created mainly one large pool for our LIFO inventories and included some additional elements of inventory under the LIFO method.

Q. That had not previously been on LIFO?

A. That had not previously been on LIFO.

Q. If you will look down under the column leaf tobacco, you will see under the third line item the entry green leaf, and you will have a zero dollar amount for that for 1984? Are these year to date figures that appear throughout here, Mr. Eckmann, for the December 1984 Consolidated Trial Balance?

A. For balance sheet type accounts such as this one it's a -- as of that point in time really a life to date as opposed to year to date.

Q. That's true with respect to the balance sheet section of the Consolidated Trial Balance?

A. Yes.

Q. It's not true with respect to the income statement section of the Consolidated Trial

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Balance; is that right?

A. That's right.

Q. If you will look at Willingham Exhibit 58 for a moment, Mr. Eckmann, have you seen this document before as part of your job duties as controller of general accounting, assistant controller?

MR. PHILLIPS: Objection. He's not assistant controller of general accounting as he sits here today.

MR. CONDREN: I understand that.

MR. PHILLIPS: Okay.

A. For the record, my title was just assistant controller.

Q. Right. I refer to assistant controller of general accounting as opposed to the position I understand Mr. Tucker had at some point, which was assistant controller with duties of supervising budget and cost, so just out of habit I say assistant controller of general accounting, so I apologize for that.

A. I believe I would have seen this document before. Again I have no way of telling whether this is a document I have seen before or not.

I need to correct myself. I

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didn't look at the date. That would have been after I left that position. I'm sorry.

Q. Okay.

(Off the record discussion.)

MR. CONDREN: Let's mark as Eckmann Exhibit 1 the July 1985 Consolidated Trial Balance for Brown & Williamson Tobacco Corporation, document numbers 166298 through 166319.

(Whereupon, Eckmann Exhibit 1 was marked for identification.)

Q. Would you just inspect that for a moment, Mr. Eckmann and Mr. Phillips?

(Off the record discussion.)

Q. Can you identify this document for me, Mr. Eckmann?

A. It's Brown & Williamson Consolidated Trial Balance as of July 31st, 1985.

Q. Can you describe for me briefly the process by which this document was generated?

A. It would have been generated by the supervisor of general accounts and voucher audit.

Q. Do you know who that person was at the time this document was generated?

A. Yes.

Q. Who was that?

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A. Mike Evans.

Q. Did Mr. Evans work for you at the time this document was generated?

A. Yes.

Q. All right. Go anead.

A. That position would have prepared it from -- using a computer program summarizing information from the company's general ledger as of July 31st, 1985.

Q. Similar to the manner that was used for the preparation of the December 1984 Consolidated Trial Balance that you have discussed previously?

A. Similar to, but we had different software in place at the time.

Q. That's what accounts for the different format between the two documents, Klein 2 and Eckmann 1?

A. Yes.

Q. If you will look on Page 3 of Eckmann 1, you will see about halfway down the page under the column leaf tobacco an entry for green leaf. Can you tell me what that line item is designed to represent?

A. I don't believe I can give you

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an accurate description. It was an area I didn't really have firsthand responsibility for.

Q. Do you know who did have firsthand responsibility for that area as of the time this document was generated?

A. The accountants and the Export Leaf Tobacco division.

Q. Export Leaf is a division of Brown & Williamson?

A. That's my understanding.

Q. It's not a subsidiary?

A. I'm not the appropriate person to give the answer. It's my understanding it's a division, but I could be wrong.

Q. Can you explain to me why on the July 31st, 1985, Consolidated Trial Balance under the last year column there is an entry for green leaf of approximately $5.7 million, while on the December 1984 Consolidated Trial Balance there is an entry of zero dollars for green leaf? You might want to look back at --

A. I remember it being zero. I can't answer with certainty, but I assume it's due to the timing of the tobacco markets.

Q. Can you explain to me what you

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mean by the timing of the tobacco markets?

A. Tobacco is only purchased and in an unprocessed state by ELT, Export Leaf Tobacco Group, at certain times of the year, and after it's processed, it's no longer in the green leaf category as I understand it.

Q. And that would account for the zero entry on Klein 2 under green leaf; is that what you are saying?

A. I'm saying that's a possibility.

Q. If that were the case, however, do you know why there would be an entry of $5.7 million for last year on the July 31st, 1985? Does that mean that as of July 31st there was $5.7 million?

MR. PHILLIPS: July 31st, 1984?

MR. CONDREN: '5.

MR. PHILLIPS: You're looking at last year.

Q. I'm sorry, '84. Let me start again.

Does the entry of $5.7 million under the last year column on Eckmann 1 for green leaf mean that there was $5.7 million of green leaf as of that time?

A. That time being July 31st, 1984?

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Q. July 31st, 1984?

A. That would be my understanding of what that means.

Q. Do you know why then on the Consolidated Trial Balance for December 31st, 1985, there would be a last year entry for green leaf of approximately $34 million? That's in Willingham 58, Page 3.

A. Could you ask me that question again?

Q. Can you explain to me why there is a $34 million entry for last year on the December 1985 Consolidated Trial Balance for green leaf, while on the December 1984 Consolidated Trial Balance, which is Klein Exhibit 2, there is an entry of zero for green leaf?

A. Yes. When Klein 2 was prepared, the accounts related to Export Leaf Tobacco were carried in a separate trial balance. At the time that Willingham 58 was prepared those accounts were combined into a single trial balance.

Q. And the last year figure on Willingham 58 for green leaf includes those export accounts?

A. That's right.

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Q. And Klein 2 does not include those for green leaf?

A. That's right.

Q. That explains it.

If you will look down -- looking back at Klein 2, Mr. Eckmann, Page 3 -- I know we have a lot of paper on the table. I'll give you a moment to collect them all.

Let me just clarify something, Mr. Eckmann. In 1984 were there separate Consolidated Trial Balances prepared for Export Leaf, separate from Klein 2?

A. I am not sure what their description was. They had a document similar to the Brown & Williamson Consolidated Trial Balance during 1984, a separate document.

MR. CONDREN: Do you know whether those documents have been produced, Will?

MR. PHILLIPS: I have no idea.

MR. CONDREN: I'd like to request production of them if they haven't been.

MR. PHILLIPS: Okay. I'll take it under advisement.

THE WITNESS: Could we take a break in 10 or 15 minutes?

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MR. CONDREN: Sure.

MR. PHILLIPS: Could we take a break sooner than that?

MR. CONDREN: Off the record.

(Off the record discussion.)

Q. If you will look down under the leaf tobacco column on Page 3 of Klein 2, Mr. Eckmann, you will see an entry -- two lines under green leaf, freight and charges domestic leaf. Can you tell me what kinds of expenses that line item is designed to capture?

A. In my position I really did not get directly involved in that account, and I would be unsure of any answer I would give.

Q. Do you know whether any of these expenses are at any point captured in FC&I that is used to calculate variable margin for particular brands and styles of cigarettes?

MR. PHILLIPS: Are any of the expenses which are reflected in account 114515 reflected in the calculation of --

Q. FC&I, that is used to calculate variable margin as it appears on the cost sheets for particular brands and styles of generic cigarettes?

A. It's my understanding that this

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would be included in calculating variable margin, but not in the category you're describing, but I don't say that with absolute certainty.

Q. Under what category of cost do you believe it would be captured for the purposes of determining variable margin?

A. It's my understanding it would be included in combined factory variable manufacturing costs.

Q. Would it --

A. Again, that wasn't my area of responsibility, and I could be inaccurate.

Q. I'm just asking for your understanding, Mr. Eckmann. I appreciate your qualifications, your qualifying your answer.

Is it your understanding that these types of expenses would be captured under leaf cost for the purposes of determining variable margin?

A. That's my understanding.

Q. Is the same true with respect to freight and charges PJS and freight and charges ART, the two line items at the bottom of that page?

A. I really have no awareness of the treatment of those.

Q. All right. If you turn to the

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next page, you will see a line item duty on Turkish leaf, fourth line down. Can you tell me what that line item is designed to represent?

A. I really don't have a detailed understanding of that account.

Q. Do you have a general understanding of that account?

A. Not really. Only as I would read the description just as you would.

Q. Do you see the line item duty on consignment leaf, and the one following that other charges on consignment leaf, Mr. Eckmann? What is consignment leaf as it's referenced on these two line items?

A. I'm not familiar with the consignment leaf arrangements.

Q. Do you know that Brown & Williamson entered into consignment leaf arrangements in 1984?

A. I have no awareness of that.

Q. Do you see the line item accumulated LIFO adjustment leaf that appears below the two line items we have just been discussing? Can you tell me what that line item is designed to represent?

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A. It's my understanding that that represents the adjustment of inventories from -- or to a LIFO basis.

Q. Is that the leaf LIFO adjustment that we have discussed previously?

MR. PHILLIPS: Objection.

A. They are related.

Q. How are they related?

A. They both involve moving to the LIFO basis of accounting.

Q. If you will look under the column operating supplies on that page, the last line item under that column you will see an entry accumulated LIFO adjustment, wrapping, casing and filters. Can you tell me what that line item is designed to represent?

A. The amount necessary to bring the book value for wrapping, casing and filter material to a LIFO basis as of 12-31-84.

Q. Is that similar to the accumulated LIFO adjustment for leaf that appears on this page that we have just discussed?

MR. PHILLIPS: Objection.

A. There is some similarity.

Q. What's the difference aside from

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the fact that we're talking about different raw materials?

A. I really don't know all of the differences.

Q. If you turn to the next page, Mr. Eckmann, you'll see an entry deferred modification charges. It appears about a third of the way down the page. Do you see that?

MR. PHILLIPS: 116043?

Q. Yes. Do you know what that line item is designed to represent?

A. I don't recall at this time. I did know at one time, but I do not recall what the detail is.

Q. If you turn to Page 6, carrying over to Page 7, you'll see under the category plant equipment onto the next page entries for Petersburg and Macon. Do you know whether that represents manufacturing equipment at those facilities?

MR. PHILLIPS: Exclusively or in any part?

Q. Either one?

A. Manufacturing equipment would have been included in there.

Q. Were there other types of

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equipment aside from manufacturing equipment that are included in that?

A. I don't have a detailed understanding of the fixed asset area.

Q. Does Mr. McMakin have an understanding of the fixed assets area?

A. Yes.

Q. If you turn to Page 9, Mr. Eckmann, you will see two entries. One is patented hogsheads - heads, and the other is patented hogsheads - sides. What are those line items designed to represent?

A. I don't know the detail on those accounts.

Q. What are hogsheads?

A. It's a container that holds tobacco.

Q. Does it hold tobacco in the process of that tobacco being aged?

A. It holds tobacco for storage.

Q. If you will look at Page 10, Mr. Eckmann, you will see a column entitled accumulated depreciation and amortized interest.

A. Yes.

Q. Do you believe that Mr. McMakin

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would have an understanding as to the details of the line item appearing under that column?

A. I believe so. That's his area of job responsibility.

Q. What was Mr. McMakin's position, or what were his positions in 1984 and 1985 with Brown & Williamson?

A. I believe his title during that entire time was supervisor of fixed assets.

Q. If you turn to Pages 11 and 12, you will see under the heading accrued expenses all of the line items beneath that beginning with the term Prov. Is the term Prov. as it's used under this column synonymous with accrued?

A. Yes.

Q. If you will look at the next page, you will see various entries pertaining to generic rebates, beginning with the 8th line down, the 8th, 9th and 10th lines, numbers 212039, 040 and 041. Do the numbers that appear next to those line items represent accruals as of December 31st, 1984, for those generic rebates that are referenced on those lines?

A. Yes.

Q. The line beneath that, display

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contracts, does that refer to contracts entered into with respect to Brown & Williamson's branded cigarettes?

A. Yes.

Q. It has no relevance to generics; is that correct?

MR. PHILLIPS: Objection. You can answer.

A. I really don't know the answer to that question.

Q. The next line item freight, cartage and insurance domestic, can you tell me what that line item is designed to represent?

A. It's the estimated liability for unpaid freight bills primarily as of 12-31-84.

Q. This relates to product that has already been shipped to the customer; is that correct?

A. Not necessarily. It could also relate to shipments from the factory to the warehouse.

Q. If you will look at Page 13, you will see an entry ten lines down, loan to Export Leaf Tobacco Company of approximately $83 million. Do you know what that line item is designed to represent?

A. No, I don't have a clear understanding of that line.

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Q. If you will turn to Page 17, is this where the income statement portion of the Consolidated Trial Balance commences?

A. Yes.

Q. Are the figures that appear on the Consolidated Trial Balance in this section designed to match up with the consolidated income statement that's prepared by Brown & Williamson for that particular month?

MR. PHILLIPS: For the month of December 1984?

MR. CONDREN: Yes.

A. These numbers would compare to year to date figures in an income statement.

Q. Right. Not the figures for December only, but the year to date section of the consolidated income statement?

A. I'm not exactly sure what you are referring to when you say consolidated income statement.

Q. Are you familiar with a document that's generated by Brown & Williamson every month called the consolidated income statement, or was generated in 1984 and '85?

A. We obviously generated an income

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statement. I don't recall what we called it.

Q. The income statement that you recall generating, are the figures that appear year to date on that income statement designed to match up with the year to date figures that appear on the income statement section of the Consolidated Trial Balance for December '84?

A. Yes.

Q. If you will look at the entry under gross paid sales domestic cigarettes, you will see a figure of 67,987,320. What is that figure designed to represent?

A. That's the number of thousand cigarettes sold to domestic customers.

Q. For the year 1984?

A. Yes, 1984.

Q. Including brands and generics; is that correct?

A. Yes.

Q. If you look under the line item specific brand expenses domestic, the first entry under that, advertising media. Do you know whether that line item is designed to capture new product development expenses incurred in 1984 with respect to Brown & Williamson cigarettes?

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A. I don't recall where new product development expenses are included in the income statement, which category they are in.

Q. Are they intended to be included somewhere on the income statement?

A. Yes.

Q. All new product development expenses?

A. I believe so.

MR. CONDREN: Off the record.

(Off the record discussion.)

Q. If you will turn to Page 22, Mr. Eckmann -- is Page 21 first of all where the income statement section of the Consolidated Trial Balance ends?

A. Yes.

Q. What is the section that begins on Page 22 designed to do?

A. It's a clearing accounts section provided for information purposes only. All of these accounts are included elsewhere up in the first two sections of the Consolidated Trial Balance.

Q. If you will look on Page 22 under the column depreciation, rents, et cetera, you will see a total dollar amount for depreciation,

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rents, et cetera, distributed of approximately $45.6 million.

Can you tell me why that amount is different from the amount that appears next to the line item depreciation, rents, et cetera, on Page 19 in the income statement section?

A. That portion of depreciation, rents, et cetera, is charged to categories other than COC manufacturing.

Q. In other words, approximately $13-1/2 million of the $45 million would be charged to an account other than COC manufacturing in the income statement?

MR. PHILLIPS: Objection.

A. Yes.

Q. Can you tell me what account or accounts that additional 13 plus million dollars was attributed to?

A. Not from memory, no.

Q. If you will look at freight, cartage and insurance finished goods domestic as it appears beginning on Page 22 carrying over to page 23, you will see a figure of approximately $22.8 million under the freight distributed line item.

Can you tell me why that amount

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of 22.8 million is different from the freight, cartage and insurance figure that appears on Page 17 in the income statement?

A. I believe the difference would relate to the amount assigned to inventory, but I would have to check that to be sure.

Q. Can you explain to me how the amount assigned to inventory would create a discrepancy between those two figures?

A. The amounts on Page 23 are coming out of clearing accounts, and the expense that's assigned on Page 17 relates to just goods sold, whereas the amounts coming out of the clearing account relate to goods that aren't necessarily sold.

Q. If you will look at the line items under freight, cartage and insurance on Pages 22 and 23, are these the components of FC&I as it's calculated for the purposes of determining variable margin of particular brands and styles of cigarettes on the cost sheets?

MR. PHILLIPS: Can you give me the question back?

(The reporter read the record.)

MR. PHILLIPS: All of the components or some of the components?

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MR. CONDREN: Both.

MR. PHILLIPS: Take one at a time.

Q. Are all of these components included in the calculation of variable margin of particular brands and styles of cigarettes on the cost sheets?

A. I really can't say without -- with certainty without looking at the calculation.

Q. Are you aware of any other components of FC&I as it appears on the cost sheets that are not included under this column on the Consolidated Trial Balance?

A. I'm not aware of any.

Q. If you will look at Page 25, you will see under the overheads manufacturing column a line item freight and transportation charges. Can you tell me what kinds of freight and transportation charges are collected under this heading overheads manufacturing on the Consolidated Trial Balance?

A. I don't know. I'm not familiar with that account.

Q. That account referring to overheads manufacturing in general, or that particular line item?

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A. That particular line item within there.

MR. CONDREN: Let's take a break.

(A break was taken.)

Q. If you will turn to Eckmann 1, Mr. Eckmann, on Page 8, the July 1985 Consolidated Trial Balance, Page 8, you will see the 11th line down, and the 12th line down, Prov. freight, cartage and insurance -ELT, and the line item under that Prov. -ELT buying/processing costs?

MR. PHILLIPS: What accounts are you on?

MR. CONDREN: 420 and 412.

MR. PHILLIPS: Okay.

Q. If you will look first at 420, Mr. Eckmann, can you tell me what expenses that line item is designed to reflect?

A. Both of those accounts were managed by someone outside of my area, and I really don't have a good understanding of what's in there.

Q. Do you know who those accounts were managed by in 1984 and 1985?

A. Hugh Ingram would have been the manager in charge of the area.

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Q. He was the controller of Export Leaf during that time period?

A. Yes.

Q. Would these two line items appear in the 1984 document prepared by Export Leaf similar to the Consolidated Trial Balance that was prepared by Brown & Williamson in 1984?

MR. PHILLIPS: Objection to form.

A. Yes, I assume they would have.

Q. If you will turn to Page 17 of Klein 2 and Page 12 of Willingham 58, Mr. Eckmann --

MR. PHILLIPS: Page what, 2?

MR. CONDREN: Of which?

MR. PHILLIPS: Willingham 58.

Q. Page 12 of Willingham 58 and Page 17 of Klein 2. On Klein 2 you will see a LIFO leaf expense under variable costs domestic of approximately $8.1 million for 1984, and on Willingham 58 under LIFO leaf domestic towards the bottom of the page you will see a last year figure of approximately $9.5 million. Can you tell me what that discrepancy is attributable to, Mr. Eckmann?

A. I can't recall. At the time the numbers were loaded into the new software package

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there was detailed reconcilliation, so I'm sure there's a record of it, but I don't recall the answer is.

Q. The new software package, you're referring to the software package that was used to create Willingham 58 and Eckmann 1, as opposed to the package that was used to create Klein 2; is that what you are referring to?

A. The new software package as well as combining the accounts of ELT.

MR. PHILLIPS: Assuming both of these are final versions.

MR. CONDREN: Both of these meaning Klein 2 and Willingham 58?

MR. PHILLIPS: Yes.

Q. If you will look on Page 13 of Willingham 58 and Page 3 of Klein 2, you will see for Willingham 58 an entry of approximately $1.632 million under LIFO other, two-fifths of the way down the page under COC manufacturing costs.

A. Okay.

Q. Can you tell me what that expense of $1.632 million in 1984 was designed to reflect?

A. I don't know for certain.

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Q. Do you know what the line item just below that on Willingham 58, NBU LIFO - other than leaf replacement is designed to reflect for 1984 and 1985?

A. I'm not familiar with that description.

Q. Do you know whether either or both of those two line items have any relation to the line item accumulated LIFO adjustment other on Klein Exhibit 3, the approximately $21 million entry?

A. Well, they both do, but I don't know the distinction in breaking the two apart.

Q. Do you know what they're --

A. That occurred after I left Brown & Williamson, I believe, the splitting of the two.

Q. Do you know what the composite of the two is designed to reflect?

A. I think I explained that earlier.

Q. That's the switch to the NBU method of accounting?

A. Yes.

Q. But you don't know what the break out of 19.2 and 1.6 is designed to mean?

A. I believe that occurred after I

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left Brown & Williamson.

Q. If you will look at Page 13 of Willingham 58 and Page 19 of Klein 2, you will see that on Klein 2 there is an entry for damaged and obsolete materials under common operating costs corporate?

A. One second.

MR. PHILLIPS: You're saying on Klein 2?

Q. On Klein 2 under common operating costs corporate there is a line item damaged and obsolete materials.

If you will look on Pages 13 and 14 of Willingham 58, you will see that on Page 14 under common operating costs corporate there is no entry for damaged and obsolete materials, but rather there is on Page 13 under common operating costs manufacturing -- I believe -- where did I see it --

MR. PHILLIPS: Under common operating costs manufacturing.

Q. Below that -- I'm sorry -- it's not under that heading, but it is below that, there is an entry for damaged and obsolete materials.

Does the location of the damaged and obsolete materials line on Willingham 58 mean that

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that account had been taken out of common operating costs corporate by that time?

MR. PHILLIPS: Are you asking whether these are the same accounts --

Q. Are they the same accounts?

MR. PHILLIPS: -- 0505 and on Willingham 58, 561020?

Q. Sure, that's the preliminary question, are they the same accounts?

A. I believe this activity took place after I left Brown & Williamson, but since they have the same name and amount one would guess so.

Q. Do you know why, assuming that they're the same accounts, that account was taken out of COC corporate?

A. Again I believe it happened after I left, and I wouldn't know.

Q. Well, if you look at Eckmann 1, Page 13, which is the July 31st, 1965, Consolidated Trial Balance, you will see that the damaged and obsolete materials account is located in the same place as it is on Willingham 58. Does that indicate to you that that change had been made prior to your leaving Brown & Williamson?

A. It must have been.

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Q. Does that refresh your memory at all as to why that change was made?

A. No.

MR. CONDREN: Off the record.

(Off the record discussion.)

Q. Let me show you what has previously been marked as Wilson Exhibit 18, Mr. Eckmann. These are the cost sheets prepared by Brown & Williamson with respect to generic cigarettes for July 1984 through and including December 1985.

A. I do remember the answer to that other question now after thinking about it.

Q. Which question?

A. Relative to why -- to the different placement in the consolidated income statement of COC of damaged and obsolete materials.

Q. Okay.

A. The change was really mechanically made when we put the new software in to suit our reporting requirements through our parent company. It had always been included, reclassified into another category for that reporting, and by repositioning it in the income statement it avoided having to make manual reclassifications for that reporting.

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Q. You are referring to the reporting that Brown & Williamson had to make to BATUS?

A. Yes.

Q. Under what account was it reclassified in its reporting to BATUS by Brown & Williamson?

A. It's my recollection that it was included in cost of sales in the reporting to BATUS.

Q. And what kinds of expenses were designed to be included within the category cost of sales as it was reported to BATUS as you generally understand it?

A. Really virtually everything that isn't a selling or administrative type cost.

Q. Okay. If you will, look at Wilson Exhibit 18. Have you had time to review that, Mr. Eckmann?

A. No.

Q. Can you identify all or any part of Wilson 18 for me, Mr. Eckmann?

A. I believe these are what we referred to as cost sheets at Brown & Williamson.

Q. What types of information are contained in these cost sheets, Mr. Eckmann,

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generally?

A. I would qualify all of my answers in this section in terms of while this -- the supervisor who is responsible for preparing these reported to me, I have no detailed understanding of what's included in the reports, not having seen them on very many occasions at all.

Q. Do you know what position prepared these sheets?

A. I believe the title was supervisor of premium and sales accounts.

Q. That was someone who worked in general accounting?

A. Yes.

Q. Do you know what person or persons had that position from July 1984 through and including December 1985?

A. Chris Deignan would have been the only person.

Q. Mr. Deignan would have detailed knowledge as to how these sheets were prepared; is that correct?

A. Yes.

Q. Mr. Deignan work for Brown & Williamson at the present time?

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A. I believe he does.

Q. Does he hold the same position that he held in 1984 and 1985?

A. I'm not sure.

Q. If you will look at the column sales, first looking at July 1984, why don't we turn to the second page where the generic figures begin? You may have to flip back and forth because there are no headings on the second page. Can you tell me what the column sales and the subheading quantity are designed to represent?

MR. PHILLIPS: Why don't we turn instead to September 1984 where you have both figures and headings?

MR. CONDREN: For generics?

MR. PHILLIPS: Right. 173186.

MR. CONDREN: Good idea. I want to go back to July '84 for other reasons, but for this purpose we'll do it on September 1984.

A. Okay.

Q. Can you tell me what the column sales and subheading quantities with respect to generic cigarettes are designed to represent?

A. Again without a detailed understanding of the source of the numbers, the

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quantity I believe represents our sales quantities of generic cigarettes.

Q. For the month of September 1984 in this case?

A. Uh-huh.

Q. How about the amount of dollars column under sales?

A. It would represent the sales value of the generic cigarettes sold by us in September of 1984.

Q. These are amounts billed to customers for these brands and styles?

A. That's my understanding.

Q. Do you know whether these sales figures include military sales if there were any?

A. I don't know.

Q. Vending sales?

A. I don't know.

Q. How about the column excise tax?

MR. PHILLIPS: Which? There are two columns underneath excise tax.

Q. Right. I'd like his understanding as to what both of those subcolumns, if you will, represent?

A. The excise -- the dollars would

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be the excise tax paid on the units sold in the month of September 1984, and the rate would be the dollars per thousand cigarettes sold.

Q. Is the amount dollars for excise tax figure for any particular style derived by multiplying the rate times the sales quantity as it appears on this page?

A. I believe that's how the calculation works. I have not done it myself.

Q. Does the column coupon amount and the subheadings under that have any relationship to sales of generic cigarettes?

A. I don't believe so.

Q. Do you know how the figures for dollars and rate are derived under the heading variable manufacturing cost amount on the cost sheets?

A. I believe the rate per thousand cigarettes is a standard rate of variable manufacturing cost.

Q. Do you know where that rate comes from?

A. I'm not familiar with the details of the calculation. I believe the cost department determines that rate.

Q. Are those rates provided on

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Wilson 17?

MR. PHILLIPS: I don't think I understand your question. Do you want to know if the numbers are the same, or if Wilson 17 is where the rates on Wilson 18 come from?

MR. CONDREN: The latter?

MR. PHILLIPS: Okay.

A. I don't know if this is the source of the rates for preparing the cost sheets.

Q. Do you know whether the rates that appear on those two exhibits are designed to match up with each other for any particular cigarette at any particular time?

A. No, I don't know because I don't ever recall having seen that document before.

Q. All right.

MR. PHILLIPS: That document being Wilson 17.

MR. CONDREN: Right.

Q. Under the column LIFO, do you know where the figures appearing under the subcolumn rate are derived on the cost sheets?

MR. PHILLIPS: I think you meant from what are they derived.

MR. CONDREN: What did I say?

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MR. PHILLIPS: Where they are derived.

MR. CONDREN: From where are they derived?

MR. PHILLIPS: Doesn't matter.

A. I don't know what the calculation is to determine that rate.

Q. Is this an expense that goes into the calculation of variable margin for generic cigarettes?

A. Based on my review of this document it would appear so.

Q. Do you know what type of expense this column is designed to reflect?

A. Not specifically with respect to generics. I would say with respect to the cost sheets to bring the rate in variable manufacturing costs up to a LIFO basis rate.

Q. Does it include a LIFO adjustment for leaf?

A. I believe it does, yes.

Q. Does it include a LIFO adjustment for the other materials that go into the cigarette aside from leaf?

A. I can't say for certain.

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Q. Do you know where the figures, the rate and dollar figures that appear under the FC&I column are derived from on the cost sheets?

A. Which department or --

Q. The process by which they are incorporated into the cost sheets? Are you familiar with that?

A. In general terms, yes.

Q. Can you describe to me what your general understanding is?

A. My general understanding is that based on historical cost information per pound of shipment and estimates of future cost that a rate per pound is calculated and applied to weights of particular styles to come up with a rate.

Q. Do you know who did that calculation in 1984 and 1985?

A. I believe that the calculation is started by the supervisor of premium and sales accounts.

Q. Excuse me. That was Mr. Deignan?

A. Yes.

Q. All right.

A. I'm not totally certain if he

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actually comes up with these individual rates or whether the budget department comes up with those individual rates based on information from him.

Q. Would Mr. Deignan be able to explain to me how these rates were derived?

A. Yes.

Q. Are the rates allocated to particular styles of cigarettes based on the weight of those cigarettes?

A. Yes.

Q. Is that the only criterian that's used?

MR. PHILLIPS: Objection to form.

A. As far as I know, that's the distinguishing factor among the styles.

Q. Do you know how the dollar amounts under variable margin column on the cost sheets are derived?

A. Based on review of this form I would say it's a cross footing of the dollar amounts in each or the categories.

Q. In other words, the costs are added up and subtracted from the sales revenue?

A. Yes.

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Q. Are you familiar with a cigarette that was manufactured by Brown & Williamson that was known by the term Ovals, O-v-a-l-s?

A. I have heard of Ovals.

Q. Do you know when Brown & Williamson began selling those cigarettes?

A. No.

Q. Do you know whether they are reflected under any of the styles on the September 1984 cost sheet, that is, branded, blended, filter or filter SU?

A. No. If they would be included, I don't know which of the categories they would be included in.

Q. When you were assistant controller, Mr. Eckmann, did you receive the cost sheets on a monthly basis?

A. No. I received a one page summary of the cost sheets, which just had the totals.

Q. To whom were the cost sheets distributed on a monthly basis from 1984 and 1985 at Brown & Williamson?

A. I don't know. I don't know.

Q. If you will look at the April 1985 cost sheet, which begins with document number

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173198 and goes through 173204, you will see a column designated SUI revaluation. Do you know what the column SUI revaluation is designed to reflect?

A. I believe that it represents the charging to expense of the excess amount over the rate for variable manufacturing costs that the inventory of generic products going into April carried.

Q. Do you know why there was an excess charge carried for generics as of April 1985 in addition to the variable manufacturing cost figures?

MR. PHILLIPS: Objection as to form.

A. I probably used an unfortunate word. I don't think it really was an excess cost. I believe that's about the time that we switched blends and starting making them at a lower cost, so the inventory on hand had the old blend at a higher cost, and this is charging to cost of sales that higher cost.

Q. The variable manufacturing cost figure on the April 1985 cost sheet would reflect the low cost blend; is that correct?

A. Right. So in order to charge off the higher cost of the existing inventory, it

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required an additional roughly dollar per thousand cigarettes.

Q. Do you know who was responsible for determining what the rates would be for the SUI revaluation for any particular month or how long that revaluation would be applied on the cost sheets?

MR. PHILLIPS: One at a time.

A. As to who was responsible for determining the rate, I'm not certain. I believe the cost department. As to how long the charge off continued, until the quantity in inventory was depleted.

Q. The quantity that reflected the previous blend?

A. Uh-huh.

Q. Does Brown & Williamson typically do a revaluation of inventory to reflect changes in the standard costs of making that inventory?

A. Again, that's not really my area. I believe we made changes in standards periodically, but also did so when there were significant changes in blends.

Q. Was it typical that the variable manufacturing cost figures for generics in 1984 and

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1985 that appear on the cost sheets would not accurately reflect the standard cost of making those particular cigarettes that were sold that month?

MR. PHILLIPS: Objection. Give that one back to me again.

(The reporter read the record.)

MR. PHILLIPS: Besides my objection to form, I hope it's not an implication that he has so testified with respect to April 1985 in your question that he --

MR. CONDREN: Let me rephrase it. I didn't mean to use the term accurately.

Q. What I am getting at is was it typical that there would be standard cost changes from the time cigarettes were manufactured to the time they were sold and reflected on the cost sheets so that the standard cost appearing on the cost sheets for those cigarettes would not precisely reflect the standard cost or making those cigarettes that were sold that month?

A. That occurs every time you change a standard cost by definition.

Q. So that, therefore, the variable manufacturing costs figures on the cost sheets would reflect the standard cost in effect for that month

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that the cost sheet was made and not necessarily the standard costs that were in effect when the cigarettes were, in fact, made?

A. That's my understanding of it. Again, this is outside of my area of determination of the rates.

Q. All right. Now, my next question is does Brown & Williamson typically do any revaluation of those costs, being variable manufacturing costs, to reflect the fact that when the goods are sold, their standard cost as reflected on the cost sheets will not necessarily be the actual standard cost under which they were produced?

MR. PHILLIPS: Objection to form.

A. I didn't understand your question.

Q. I'm not sure I did either.

Is there any way, or is there any revaluation done by Brown & Williamson to reflect the discrepancy that we have been discussing which occurs when there is a standard cost change between the time the cigarettes are manufactured and the time they are sold?

A. I really don't recall the

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procedure that was used at B&W for handling standard changes and revaluations. I think just as an accountant reviewing this one, I was going to make sure he understood what was done, because I think it is accurate as opposed to inaccurate, to sum the two pieces together. That was the entire purpose of it.

Q. Right. I didn't mean to imply that the cost sheets with the SUI revaluation were inaccurate.

MR. PHILLIPS: Or any of the other ones.

Q. Or any of the others were inaccurate. I did not mean to use the term inaccurate. What I was getting at was the discrepancy we have been discussing between the variable cost reflected on the cost sheets and the variable cost that was in effect when the cigarettes were manufactured. That's not a question. I'm just clarifying what I was getting at.

A. All right.

MR. PHILLIPS: Are you working towards breaking for lunch?

(Off the record discussion.)

Q. Let me show you, Mr. Eckmann, two exhibits which have been previously marked Wilson

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19 and Wilson 23, which are brand contribution sheets for generic cigarettes made by Brown & Williamson during 1984 and 1985.

I'm particularly interested in 19, and I'm not even sure I'm going to ask you anything about 23.

A. Okay.

Q. Have you seen these documents before, Mr. Eckmann?

A. I really couldn't say for sure whether I had or hadn't. I don't recall seeing them.

Q. Did you receive these sheets on a monthly basis as assistant controller?

A. No.

Q. Do you know whether the variable margin figures that appear on the brand contribution sheets for any particular month are designed to match up with the variable margin figures on the cost sheets for that same month?

A. I'd be guessing.

Q. Do you know what would account for any discrepancy between the variable margin figures for a particular month on the brand contribution sheets and the cost sheets?

MR. PHILLIPS: If such a

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discrepancy exists?

A. I'm not aware there were any discrepancies, so I wouldn't know what caused them.

Q. If you will look at the cost sheets for December 1984, the total variable margin figure for generics --

A. Excuse me a second.

Q. Sure.

A. Okay.

Q. December 1984, Page 43978, you will see a total generics variable margin figure of approximately $2.7 million. Do you see that?

A. Yes.

Q. If you will look at the November 1984 and December 1984 brand contribution sheets --

MR. PHILLIPS: November and December?

MR. CONDREN: Yes.

Q. -- you will see a variable margin increment for December 1984 on the brand contribution sheets of approximately $2.9 million or close to $3 million.

If you subtract 7,097,000, which is the variable margin figure for November 1984 from 10,037,000, which is the variable margin figure for

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December 1984, you will get a variable margin increment of $2,940,000 on the brand contribution sheets.

And what I would like to ask you is whether you can explain to me the discrepancy between the variable margin figures for December 1984 on the brand contribution sheets and the cost sheets?

MR. PHILLIPS: Objection to form.

A. I don't recall the details of any differences. I actually do recall there being a difference, but that's all I recall.

Q. How did you become aware that there was a difference between those two figures as they appear on the brand contribution sheets and the cost sheets for December 1984?

A. I don't know.

Q. Did someone tell you that?

A. Yes. Someone must have, or I wouldn't have become aware of it.

Q. Someone who worked for you?

A. Don't know.

Q. Do you know whether any adjustment was made at any time to either the cost sheets or the brand contribution sheets to bring those

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two figures into line with each other?

A. I really can't recall now that was handled.

Q. Do you recall that it was handled in some fashion?

A. I just don't recall the details surrounding the situation. I'm sorry.

Q. If you will compare the November 1984 with the December 1984 cost sheets, Mr. Eckmann, Page 43973 for November and 43977 for December, you will notice a change in the LIFO rates for generics from November to December.

For example, branded light kings goes from a rate of .2459 to a rate of .1079. Do you know why the rates changed from November to December of 1984?

A. I don't recall why they changed, no.

Q. Are you familiar with any adjustments that Brown & Williamson typically makes at the end of the year to LIFO rates as they appear on the cost sheets?

MR. PHILLIPS: Objection to form.

A. In general terms I am. The cost

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sheets are modified to reflect the total LIFO adjustments for the year at the end of the year.

Q. Why are LIFO adjustments made, if they are made, at the end of the year on the cost sheets?

A. Well, because the LIFO rates that are used during the course of the year are by definition estimates. It's adjusting an estimate to actual.

Q. Do you know whether that's the reason the rates changed on the cost sheets from November 1984 to December 1984?

A. I don't know that that's the reason.

Q. Do you know whether the LIFO adjustment that's made at the end of the year to reflect actual LIFO rates is designed to be applied retroactively throughout the year?

A. Yes, it would be.

Q. It is?

A. Yes.

Q. Okay. That was true in 1984 and 1985?

A. I wasn't there at the end of 1985. That's my understanding for 1984.

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Q. Let me show you briefly what's previously been marked as Klein Exhibit 3, which has the heading 1984 actual domestic LIFO rates. Have you seen this document before, Mr. Eckmann?

A. Not that I'm aware of.

Q. Do you know whether the approximate dollar impact on generics caused by the LIFO adjustment in 1984 was $257,000?

A. I don't believe I have seen that number before, no.

Q. Do you have any recollection aside from this document as to what the approximate dollar impact on generics was for that year end LIFO adjustment for 1984?

A. No.

MR. CONDREN: Why don't we break for lunch? It's five minutes till 12:00.

A. Very good.

(A lunch break was taken.)

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Q. Mr. Eckmann, this morning I was in such a hurry to get into the substance of your testimony that I neglected to ask you to state your full name and present home address for the record. Could you do that for me now, please?

A. Full name is Jeffrey A. Eckmann.

Q. Mr. Eckmann, the Consolidated Trial Balance for July 1985 that constitutes Eckmann Exhibit 1. was that generated by Brown & Williamson employees?

A. Yes.

Q. Do you know who specifically was responsible for those documents having been generated?

A. At that time Mike Evans was in the job that is responsible for generating it.

Q. And Mr. Evans took responsibility for generating this document as part of his job duties under you as general accountant -- as assistant controller at that time?

A. Yes.

Q. He was authorized by you to generate this document in this form?

A. Yes.

Q. Was this document made in the

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regular course of Brown & Williamson's business?

A. Yes.

Q. Was it kept after its having been generated in the regular course of Brown & Williamson's business?

A. Yes. Again the answer to all of these questions is my assumption that this is the final document from that period and that it -- you know, I can't assure you from two minutes of looking at this without comparing it to what I saw back then, but I certainly would believe that to be that document.

Q. Assuming that this was the final version of the July 1985 Consolidated Trial Balance did individuals at Brown & Williamson rely on the accuracy of this document in performing their job duties?

A. Yes.

Q. Do you know when this document was generated by Brown & Williamson?

A. I see the date at the top is August 9th, 1985.

Q. Concerning the cost sheets that comprise Wilson Exhibit 18, Mr. Eckmann, were those all prepared by Mr. Deignan?

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MR. PHILLIPS: You're talking about the printed figures and not the handwriting contained therein?

MR. CONDREN: Correct.

A. The cost sheets are typically -- or were typically prepared under Mr. Deignan's supervision with respect to that particular month. I don't have any recollection that would say they weren't prepared under his supervision.

Q. Which particular month are you referring to? You're talking about all of the cost sheets?

A. All of the cost sheets?

Q. Yes, not just --

A. From July of '84 through --

Q. December of 1985?

A. With respect to through July 1985 my answer relates to through July 1985.

Q. Through and including July 1985?

A. Including July 1985.

Q. Why is your answer limited to that time period?

A. Because I wasn't in my job after that period of time.

Q. All right. Just for the period

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then July 1984 through and including July 1985 those cost sheets that comprise a part of Wilson Exhibit 18 were prepared under the supervision of Mr. Deignan?

A. Yes. Now, that doesn't allow for vacations or any such thing, but they were in his area of responsibility, yes.

Q. And they were prepared by someone who worked for him?

A. Yes.

Q. And they were prepared as part of that person's job duties at that time?

A. Yes.

Q. And Mr. Deignan supervised the preparation of these documents as part of his job duties under you?

A. Yes.

Q. With respect to the cost sheets that comprise Wilson 18 for the months you have indicated, July 1984 through and including July 1985, were those made and kept in the regular course of Brown & Williamson's business?

A. Yes.

Q. For those months that you have stated, July 1984 through July 1985, did individuals at Brown & Williamson rely on the accuracy of the

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information contained in the cost sheets?

A. Yes.

Q. Can you tell me generally when the cost sheets were prepared for any particular month?

A. Within the first two to three business days of the following month.

Q. In other words, the July 1984 cost sheets were prepared within the first two or three business days of August 1984?

A. Right.

Q. Was it any different --

A. Let me say within a week of the month end, yes.

Q. Okay. Was it any different for the December 1984 cost sheets?

A. I don't recall the timing of the final LIFO adjustment as of year end, but they certainly would have been prepared within a month of the end of the year.

Q. Okay. Mr. Eckmann, are you familiar with a concept called LIFO decrement avoidance?

A. I am familiar with LIFO decrements, yes.

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Q. Do you have an understanding as to what I mean by the term LIFO decrement avoidance?

A. I'm sure I can understand that.

Q. With respect to tax liability, is LIFO decrement avoidance desirable or undesirable when leaf prices are rising?

MR. PHILLIPS: Are you asking him for his knowledge, or are you asking his opinion? Are you asking him is it desirable in any instance leaf prices have been rising during the periods that we're talking about?

MR. CONDREN: What is his understanding as to whether it's desirable or undesirable from a tax standpoint?

MR. PHILLIPS: Are you asking him to testity as an expert?

MR. CONDREN: No.

MR. PHILLIPS: Are you asking his opinion?

MR. CONDREN: I'm asking him what his belief is and what his understanding is. I don't think it's requiring him to give any expert testimony.

A. It's desirable from a tax standpoint to avoid having a LIFO decrement.

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Q. When prices are rising?

A. That's true.

Q. Why is that?

A. So that you aren't charging against income prior period costs from -- and that you're continuing to charge current costs, which would normally be higher, against current income.

Q. Current costs are higher than prior costs?

MR. PHILLIPS: In a period of --

A. In a period of rising prices as you have said.

Q. And going into decrements would require you to cost your goods at a lower price?

A. Right.

Q. And that creates a tax liability because your expenses are lower and your income higher and, therefore, your taxes higher; is that correct?

A. That's right.

Q. That's right. From a tax standpoint is LIFO decrement avoidance desirable or undesirable when prices are falling?

A. It would depend on the extent of the fall.

Q. Assuming that the decline in

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price created a situation where going into the decrement would mean you were charging your goods at a higher price than if you had not gone into the decrement, would that create a tax advantage or disadvantage?

MR. PHILLIPS: Are you posing hypotheticals for him, counsel?

MR. CONDREN: Yes.

A. If it were based on the same quantities, it would be desirable to have higher costs.

Q. For tax purposes?

A. Yes.

Q. In which case it would be desirable to go back into the decrement when prices were falling?

A. Right. You're not talking about Brown & Williamson? You're talking hypothetically?

Q. Yes.

A. (Affirmative nod.)

Q. Do you know whether leaf prices fell in 1985?

A. No, I really wasn't there through the end of the year, so I don't know what the final result was.

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Q. Do you know whether they fell during the time period that you were there from the previous year?

A. I really don't recall numbers from leaf prices.

MR. CONDREN: Let's mark as Eckmann Exhibit 2 the Consolidated Income Statement for Brown & Williamson dated December 31st, 1985, document numbers through 182578 through 182584.

(Whereupon, Eckmann Exhibit 2 was marked for identification.)

Q. I'm just going to ask you about the first page.

A. Okay.

Q. You can look at the entire document if you wish.

Under the line LIFO leaf domestic on Page 1 you will see an entry under the column actual of $27,422,341 with a negative sign next to it. Do you know what that amount of dollars is designed to represent on this page?

A. I don't know, no, because I wasn't involved in it.

Q. Do you know what that negative sign means?

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A. It means it's the positive factor on income as opposed to a negative factor.

Q. It was not an expense item?

A. Right.

Q. If you will look at the year to date actual figure for LIFO leaf domestic you will see an entry of approximately $16 million with a negative sign next to that. Is that negative sign also designed to reflect the fact that the year to date LIFO leaf domestic line item was not an expense, but rather a credit?

A. Without adding up the numbers I would assume it would be consistent with the other one, with the month figure.

Q. Without adding up which numbers?

A. All of the numbers that aggragate to that. I have never seen this document before, so it's hard to say with any certainty without checking it out.

Q. Generally speaking, under what circumstances would the LIFO leaf domestic line item on the Consolidated Income Statement be a credit rather than an expense item?

A. I really hesitate to give any general answer to that because of the complexities of

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LIFO, and I don't think it's -- you're safe or fair to generalize about it.

Q. Do you know what kind of expense or credit as the case may be that line item is designed to reflect on the Consolidated Income Statement?

MR. PHILLIPS: What, the LIFO leaf domestic?

MR. CONDREN: Yes.

A. With having just gone to NBU I'm not sure if there were any changes after I left or not, so I really would hesitate to say.

Q. Was that a line item on the Consolidated Income Statement as of the time you left your position as assistant controller?

A. I believe it was.

Q. As of that time what kind of expense or credit was designed to be reflected in that line item?

MR. PHILLIPS: In July 1985?

MR. CONDREN: Yes.

A. I would say that -- I really am not sure relative to July 1985 because we were talking about potential changes in handling relative to the categories in July 1984 that would have generally

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represented the adjustment to get to current costs. But as to what it means in December or July 1985 I don't really know.

Q. How about December 1984, would that line item on the income statement be an adjustment to current costs?

A. Can I see it?

Q. Sure. Let me show you what's previously been marked as Samuels Exhibit 1, which is the December 1984 Consolidated Income Statement to Brown & Williamson, and there's a line item LIFO leaf, which I believe corresponds to the line item LIFO leaf domestic on the later income statements.

A. In general terms that would be my understanding of it, yes.

Q. That it's designed to reflect the difference between moving book average and replacement cost for leaf?

A. And the LIFO value, yes.

Q. Assuming that the LIFO leaf line item on the income statement is designed to reflect the difference between moving book average and replacement cost, what would a year to date credit for that line item mean?

MR. PHILLIPS: Well, I object to

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the form of that question.

A. I think you need to ask somebody else that question. I wasn't there, and I don't know what the accounting practices were when I wasn't there.

Q. Would it mean that replacement cost was less than moving book average?

A. I don't know what their accounting practices were when I wasn't there.

Q. Let me show you, Mr. Eckmann, what has previously been marked as Wilson Exhibits 20A, 20B and 20C, which are advertising media, new product development monthly budget reports for Project Volume, generics, branded generics.

MR. PHILLIPS: There are only A B and C to this exhibit?

MR. CONDREN: Yes.

Q. Have you had a chance to review this exhibit in its three parts, Mr. Eckmann?

A. Yes.

Q. Let's look at 20A first of all. Can you identify this exhibit for me, Wilson 20A?

A. It's what we call the budget mat at Brown & Williamson for advertising media, new product development Project Volume.

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Q. What is Project Volume in reference to in this exhibit, do you know?

A. No, I don't know.

Q. Is it a reference to generics?

A. I don't know.

Q. All right.

A. I don't recall ever seeing that term before.

Q. Do you know whether any new product development expenses were incurred for generics from May 1984 through and including October 1984?

A. I don't have firsthand knowledge of that. I have -- it's my understanding that those costs were incurred, but I really have never seen bills or any such thing.

Q. Do you know who prepared Wilson 20A?

A. These are -- I'm not certain who actually prepares this. It's a document formally issued out of the general accounting department by the marketing accountant. I don't actually know whether she requests it from data processing or not.

Q. Do you know who that person was during the time period covered by this exhibit, the

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marketing accountant?

A. May of '84 through --

Q. October 1984?

A. I believe Jean Carter was the person during that period.

Q. To whom did Ms. Carter report in that position during that time period?

A. David Graas, who is the supervisor of financial reporting.

Q. Did Mr. Graas report to you during that time period?

A. Right.

Q. If you will look at Wilson Exhibit 20B, Mr. Eckmann, can you identify that for me?

A. Again a budget mat for advertising media, new product development for generics.

Q. Do you know who prepared all or any part of this exhibit?

A. I would have the same answer as for 20A.

Q. For each month that's contained in this exhibit?

A. Oh.

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MR. PHILLIPS: November through --

Q. November 1984 through and including December 1985?

A. Responsibilities for the marketing accounting position changed sometime during this period, and the new person was Frances Hunter.

Q. That's a woman?

A. Yes.

Q. C-e-s?

A. Correct.

Q. Do you know when that change took place?

A. Roughly I would say the fall of 1984, roughly. As to after September 1st I don't really know of '85.

Q. All right. Limiting my questions on Exhibit 20B to the period November 1984 through and including August 1985, it was the responsibility of either Ms. Carter or Ms. Hunter to prepare this document?

A. Yes.

Q. And Ms. Carter and Ms. Hunter in their position as marketing accountant reported to Mr. Graas throughout the entire period?

A. Yes.

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Q. November '84 through August '85?
A. Right.
Q. And Mr. Graas reported to you for that entire time period?
A. Yes.
Q. Were these monthly budget reports that constitute Exhibit 20B, again limiting my question to the time period you specified, prepared as part of the job duties of the marketing accountant under the supervision of Mr. Graas?
A. Yes, subject to the comment that I made before or I'm not exactly sure who requested preparation of these, but the responsibility for review and accuracy rests with marketing accountant.
Q. And that was part of that person's job duties?
A. Yes.
Q. During that time period?
A. Yes.
Q. And that person was authorized by you to see that these documents were prepared accurately; is that correct?
A. Yes.
Q. Were these reports for the period November 1984 through August 1985 made and kept

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in the regular course of Brown & Williamson's business?

A. Yes.

Q. Did individuals in the corporation rely on the accuracy of these reports?

A. Yes.

Q. Do you know when these were generated for any particular month?

A. Within the first week of the month following -- or within the first week of the month following the end of the period aside from year end, which could have been a little bit later.

Q. How much later, do you know?

A. Within the month following.

Q. Do you know what position Mr. Graas had when he supervised the preparation of these documents?

MR. PHILLIPS: Objection.

A. His title, is that what you are asking?

Q. Yes.

A. I believe the title was supervisor financial reporting.

Q. Did he have that position throughout 1984 and 1985?

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A. Yes.

Q. If you will look at the line item on the first page, fees, can you tell me what kinds of expenses are included on that line item?

MR. PHILLIPS: You mean the first page of Wilson 20B in the second line, correct?

MR. CONDREN: Yes.

A. I really am not familiar with the type of expenses that go in there.

Q. Are you familiar with any of the types of expenses for any of the line items in Exhibit 20B? I believe it's limited to fees, package design and package cylinders.

MR. PHILLIPS: Well, there are some other text written here in different places.

MR. CONDREN: I don't see any other line items or expense on these reports.

MR. CONDREN: Other than summaries, excuse me, I see a line item -- other NTB on the December 1985, but we're not talking about that report anyway because that's after Mr. Eckmann's time at Brown & Williamson.

A. My familiarity with what goes in there really is -- probably doesn't go much beyond what it says on the page here as to the nature of

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items and the details of the charges.

Q. Do you know whether new product development expenses reflected in these reports were reported in brand contribution for generics in 1984 or 1985?

MR. PHILLIPS: Objection.

A. My understanding of new product development for all brands is that it is not included in brand contribution because of the nature of the expense.

Q. Is it included in overall brand contribution as it appears on the income statement?

A. My recollection is that it is not included in the overall brand contribution.

Q. If you will look at Wilson Exhibit 20C, Mr. Eckmann, can you identify that for me?

A. Budget mat for advertising media, new product development for branded generics.

Q. Do you know what the term branded generics means as it's used in these reports?

A. No, I don't recall what branded generics specifically meant.

Q. Do you know whether there were any new product development monthly budget reports for

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branded generics prepared in general accounting in 1984?

A. I don't know the answer to that. I see that there aren't any in this package, but I don't know the answer to that.

Q. Who was responsible for preparing these reports, and I'll only ask you up to and including August 1985?

A. The marketing accountant who was either Jean Carter or Frances Hunter during the period.

Q. And that person, whoever it was, Ms. Carter or Ms. Hunter, did that as part of her job duties as marketing accountant?

A. That's right.

Q. She was authorized by her supervisor, Mr. Graas and by you to prepare this document in this form?

A. Yes.

MR. PHILLIPS: Objection as to form.

Q. Were these reports up to and including August 1985 that constitute Wilson Exhibit 20C made and kept in the regular course of Brown & Williamson's business?

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A. Yes, as far as I know.

Q. Did individuals in the company rely on the accuracy of these reports?

A. Yes.

Q. Do you know how soon after a particular month a report would be prepared for that month?

A. Within the first business week of the following month for the interim months and within the month of January for year end reports.

Q. Let he show you, Mr. Eckmann, what's previously been marked as Wilson Exhibits 24A and 24B and 24C. These are sales promotion specific monthly budget reports for generics and sales promotion specific expense analyses for generics.

(Off the record discussion.)

Q. Let's look at Wilson Exhibit 24A first, Mr. Eckmann, and limiting my questions to the period covering May 1984 through and including August 1985, can you identify those portions of Wilson Exhibit 24A for me?

A. This is the summary budget mat for sales promotion specific expenses for generics.

Q. Do you know who prepared these documents for that period I have just specified?

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A. I don't actually know who prepared them, but the marketing accountant again would have responsibility for review and accuracy.

Q. And that was either Ms. Carter or Ms. Hunter depending upon the time period?

A. Right.

Q. These were reviewed by either Ms. Carter or Ms. Hunter to ensure for accuracy as part of their job duties as marketing accountant?

A. Right.

Q. They were authorized to do so by Mr. Graas?

A. Yes.

Q. Were these reports made and kept in the regular course of Brown & Williamson's business?

A. Yes.

Q. Did people in the company rely on the accuracy of those reports?

A. Yes.

Q. Do you know when the reports for any particular month were generated after that month?

A. For interim months during the first week of the following month, and at year end during January of the following year.

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Q. Can you tell me whether the April 1985 report is a continuation of the March 1985 report?

A. Could you rephrase your question as to what you mean by a continuation?

Q. Are the numbers that are reflected in the March 1985 report incorporated into the April 1985 report?

A. It's my understanding that they are, yes.

Q. Is there --

A. At the time that the software changed.

Q. This was simply a change in format for these reports?

A. Right, with the change in software.

MR. PHILLIPS: Incorporated in the year to date figures.

Q. Yes, the January through March total figures?

A. (Affirmative nod.)

Q. And you said this was pursuant to the change in the computer system that Brown & Williamson underwent in the early part of 1984?

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A. Right.

Q. Okay. Looking at Wilson Exhibit 24B, Mr. Eckmann, can you identify those reports for the period May 1984 through and including August 19 -- excuse me. This only goes up to March 1985, so can you identify the whole thing for me?

A. I believe what these are is the detailed budget mats for sales promotion specific for generics, which means that these details aggregate to 24A, Wilson 24A.

Q. For the months that are covered by --

A. Right.

Q. -- 24B, May 1984 through March 1985?

A. Let me -- just to make sure that my understanding is correct, I'll look at that.

Q. Absolutely. Is that your understanding?

A. Yes, that's my understanding.

Q. If you will look at the top left-hand corner of the first page of 24B you will see a notation trade development?

A. Right.

Q. Is that designed to be a

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category of sales promotion specific expenses for generics?

A. It's meant to be more an assignment of departmental responsibility, I believe, or a category.

Q. Other categories being field promotion on the next page and brand promotions on the page following that?

A. Yes.

Q. Can you tell me what distinguishes one category from another?

A. No, I'm not familiar with that area. I couldn't give you an accurate description of the differences.

Q. Was the responsibility to ensure accuracy of these reports with the marketing accountant?

A. Yes.

Q. Who worked for Mr. Graas?

A. Yes.

Q. And that was either Ms. Hunter or Ms. Carter?

A. Yes.

Q. And they performed that function as part of their job duties as marketing accountant?

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A. Yes.

Q. They were authorized by Mr. Graas to do so?

A. Yes.

Q. Were these documents that constitute Wilson Exhibit 24B made and kept in the regular course of Brown & Williamson's business?

A. To the best of my knowledge, yes.

Q. Did individuals in the company rely on the accuracy of these documents?

A. Yes.

Q. Can you tell me at approximately what time they were prepared following the months that they are designed to cover?

A. It would generally be prepared in the week following month end for interim months and in January following year end at the end of the year.

Q. If you will look, Mr. Eckmann, at the July 1984 report, Page 4 of that report, document Number 921147

A. They are different somehow.

Q. Under brand promotions.

A. Page 4 of brand promotions?

Q. Keep going. There are different

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parts of brand promotion, and they are numbered again.

A. What document?

Q. 92114. There it is.

A. Okay.

Q. And if you will look at the August 1984 report, page Number 92124, which is also Page 4 of brand promotions -- do you have that?

A. Yes.

Q. -- you will see on the July 1984 an expense entered for that month under the category other of $696,782. Can you tell me what that expense was entered for?

A. I don't recall.

Q. If you will look at Page 4 of the August 1984 report you will see a credit entered for August 1984 of $696,642. Can you tell me what that credit was entered for?

A. I don't recall.

Q. Do you know whether there's any relationship between the expense entry that we just referred to in the July report and the credit in the August report?

A. I don't know that there's a relationship.

Q. If you will look at the November

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1984 report, Page 92153, Page 3 of brand promotions?

A. What's the document number?

Q. 92153. You will see a credit for $11,075 and two other credits for $59,000 approximately and $1,000 approximately. Do you know what any of those credits were entered for at this time?

A. No, I don't recall.

Q. Do you know what the reference to event A and event B on this page are?

A. No.

Q. Do you have any understanding as to what those terms mean, events A through D throughout these reports?

A. No, not specifically related to generics.

Q. Do you have an understanding of what those terms mean not specifically related to generics?

A. They can be used to segregate costs among various programs.

Q. What kinds of programs are you referring to? Promotional programs?

A. It can be, yes. But under package design it may not necessarily be.

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Q. If you will look back to Wilson 24A for a moment, Mr. Eckmann, the August 31st, 1985, report begins on Page Number 183710. Do you have that?

A. Yes.

Q. Can you tell me what kinds of expenses are included under the subheading customer selling samples under the category field promotion?

A. It's my understanding that that category typically is samples that are handed out to consumers.

Q. Can you tell me what kinds of expenses are included under the subheading selling materials under field promotion on that page?

A. I don't know.

Q. How about consumer trial program?

A. I don't remember what kinds of expenses are captured there.

Q. Can you tell me whether the heading retail promotion on this page is designed to be a subcomponent of the heading brand promotions that appears immediately above it?

A. No, I really can't. There are some limitations in the software that in some cases

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make tne categorization the same for all departments whether the headings are relevant or not, so I don't know whether it ought to be in this case.

Q. Can you tell me what the category requisitionable materials under the heading retail promotion is designed to reflect?

A. I'm not familiar with the details of what expense items go in there.

Q. Do you have any general understanding as to what kind of expenses are included there?

A. No, I really don't.

Q. How about the category vending offers?

A. I don't know what that particular event was.

Q. If you will look at the heading rebates, are all of the line items here types of rebates that were offered to purchasers of Brown & Williamson generic cigarettes in 1985?

MR. PHILLIPS: Are you asking him whether each of these was offered or each of these --

Q. I'm asking whether each of these were rebates that were given to customers during 1985?

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A. I'm not familiar with some of the smaller ones, particularly of the two on vending, but the others would represent expenses on an accrual basis related to rebates for generics.

Q. Are these volume rebates?

A. Well, there are several different rebates in there.

Q. Is the amount of the rebate that a customer would get dependent upon the purchases made by that customer of cigarettes?

MR. PHILLIPS: Objection to form. What do you mean, depending upon the volume bracket that it achieved, is that what you are asking or --

Q. Yes. Was there a correlation between the amount of cigarettes purchased and the amount in rebates that the customer would get?

MR. PHILLIPS: Well, that would be true on any -- on any type of promotion in which you got a flat X cents per carton whether or not it was a volume rebate is I think what you are asking, although I may be wrong. I'm not sure -- I'm looking for clarification.

Q. How are the rebates calculated for any particular customer?

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MR. PHILLIPS: Any of the --

Q. I'll ask the more general question. How was the bonus 5 percent rebate calculated?

A. I don't remember the details of the bonus 5 percent rebate.

Q. How about the promotional allowance rebate?

A. I don't remember any of the numbers involved on that. The promotional allowance rebate as far as I recall was an amount that had some relationship to volume which required promotional activities on the part of the recipient in order to qualify for the rebate.

Q. How about the prompt enrollment rebate?

A. Again not remembering the details of any of these, that had some relationship to purchase volume as the amount that would be paid.

Q. The regular volume rebate?

A. Had some relationship to purchase volume. Certainly someone buying one carton wouldn't get $100,000 as somebody would buying more than one carton.

Q. How about the vending rebates.

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vending promotion and --

A. I'm not familiar with the vending rebates.

Q. You're not familiar with any of the terms of those rebates?

A. No, I'm not familiar with the vending rebates.

Q. How about the heading coupons under consumer promotions? Do you know what kinds of expenses are included under that heading?

A. It's my recollection that the expenses included there are both the materials that go into the coupons and our cost of the coupon itself as well as the cost of redemption in that broad category.

Q. Customers of Brown & Williamson who purchased generic cigarettes got coupons in 1985?

A. I don't recall at all what kind of couponing program there might have been relative to generics.

Q. Do you recall that there was one?

A. I don't recall one way or the other.

Q. If you will look at the next page, Mr. Eckmann -- I'm sorry, if you stay on that

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page, you will see a category on/impacts. Do you know what kinds of expenses are included under that category?

A. I think I -- that's what I just tried to describe in general terms.

Q. Does that refer to stickering, do you know?

A. I don't know what was -- what these promotions would have been. I just don't recall what the promotions were.

Q. Do you have an understanding as to what I mean when I say stickering, Mr. Eckmann?

A. Yes.

Q. What is your understanding of that?

A. A sticker is some sort of coupon affixed to a pack or a carton.

Q. And what is the purpose of affixing that sticker or coupon to the carton?

A. The purchaser would get a -- some sort of price off upon buying the product at retail.

Q. Is it true that the more cartons that were sold with stickers on them, the greater the expense to Brown & Williamson to run a stickering

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program?

MR. PHILLIPS: Objection to form.

A. Presumably that would be true, yes.

Q. Can you tell me what kinds of expenses are included under the line item creative services on the next page, divided into subheadings, package design and cylinder expense?

A. My knowledge extends about as far as the description on this page.

Q. What are cylinders, Mr. Eckmann, so far as you understand that term as it appears on this page?

A. I believe a cylinder is used in the production of a -- the package. I have never seen one myself.

Q. Never seen a cylinder?

A. No.

Q. I haven't either.

(Off the record discussion.)

Q. Do you know, Mr. Eckmann, whether there is any overlap between the package design and cylinder expenses on the sales promotion specific reports and the package design and cylinder

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expenses on the advertising media reports that we looked at previously?

MR. PHILLIPS: Objection. What do you mean by overlap?

Q. Whether any expenses for those items are contained in both types of reports?

MR. PHILLIPS: You mean whether an expense for an item would occur in both places?

Q. Yeah, whether the same expenses appears in any instances in both reports?

A. It should not.

Q. What would determine whether a package design or cylinder expense appeared under advertising media or whether it appeared under sales promotion specific?

A. I really couldn't define that.

Q. Do you know whether in 1985 Brown & Williamson paid any rebates to GPC?

MR. PHILLIPS: To GPC? You're not saying to GPC customers, but --

Q. To GPC?

A. I don't know.

Q. How about to GPC customers?

A. I don't know that either.

Q. Are you familiar with any

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payments to GPC that Brown & Williamson is required to make pursuant to its contractual arrangement with GPC?

A. I really don't have any recollection of it.

Q. Are you aware of a 75 cents per thousand royalty payment that Brown & Williamson agreed to make to GPC?

A. I just can't recall the deal at all.

Q. You don't recall whether Brown & Williamson agreed to make any payments in the form of a royalty or a rebate to GPC?

A. I just can't recall at all the nature of the deal with GPC without reference to anything.

Q. So you don't recall whether Brown & Williamson agreed to make any rebate or royalty payments no matter what the amounts were?

MR. PHILLIPS: Objection. Asked and answered.

MR. PHILLIPS: You can answer it again.

A. You know, I have an awareness that there was some deal with GPC. As to what the

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specifics are, as I said, I don't recall at all.

Q. If you will look at Wilson Exhibit 24C, Mr. Eckmann, can you identify that for me?

A. The B&W sales promotion specific expense analysis, top page from June of 1984.

Q. Do you know who had the responsibility for insuring that these documents were prepared accurately?

A. The marketing accountant within general accounting.

Q. Again Ms. Hunter or Ms. Carter depending upon the time period?

A. Yes.

Q. And that was part of their job duties to ensure that these were generated accurately?

MR. PHILLIPS: To ensure these were generated accurately is part of their job duties?

MR. CONDREN: Yes.

MR. PHILLIPS: And you're talking about the printed text and not the handwriting, correct?

Q. Let me just ask you, Mr. Eckmann, do you know what the checkmarks and handwriting are that appear throughout this document?

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MR. PHILLIPS: On any given page or --

Q. Generally or anyone's in particular?

A. I would say generally it's the marketing accountant going through and verifying selected items.

Q. Is that done as part of that person's job duties?

A. Yes.

MR. PHILLIPS: Are you referring to the checkmarks or the handwriting --

MR. CONDREN: Both.

MR. PHILLIPS: -- or both?

A. I was referring to both in my answer.

MR. PHILLIPS: Okay.

Q. Were any checkmarks or handwritten marginality that appear in the sales promotion specific reports and advertising media reports that we looked at previously also done by the marketing accountant as part of that person's job duties?

A. Yes.

Q. Were any checkmarks or

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handwritten marginality that appear on the cost sheets that constitute Exhibit 18 done by the person responsible for preparing those sheets as part of that person's job duties?

MR. PHILLIPS: Perhaps we had better look at them.

A. I really don't know who made the marks on the cost sheets. I don't recognize any of the handwriting. I don't know what the purpose was. It could -- in addition to that as being a possibility, could have been done at the time of converting to -- looking at converting to a new system. I really don't know. I don't recognize those marks.

Q. You believe it was done by someone from the Brown & Williamson Tobacco Corporation?

MR. PHILLIPS: Are you asking him to speculate, or are you asking him for knowledge?

MR. CONDREN: I'm asking him what he believes?

A. All I could do is guess that that would be the case.

Q. Looking back at Wilson Exhibit 24C, Mr. Eckmann, were these documents that constitute

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this exhibit made and kept in the regular course of Brown & Williamson's business?

A. Yes.

Q. Did individuals in the company rely on the accuracy of these documents in performing their job duties?

A. Yes.

Q. Is this a detailed back up to Wilson Exhibits 24A and B?

A. Yes.

Q. Do you know whether any of these reports, specific expense analyses for generics were prepared after March 1985?

A. This document?

Q. Yes, 24C?

A. I don't know for certain that they were.

Q. Do you know whether Brown & Williamson stopped producing these reports when it changed its computer system?

A. I don't know that they did, no.

Q. You don't know whether they did or didn't?

A. I don't know for sure whether they did or didn't, right.

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Q. Can you tell me when the specific expense analyses for any given month were generated?

A. Be no later than a week after month end on interim months and then in January following year end.

Q. Let me show you, Mr. Eckmann, what's previously been marked as Wilson Exhibits 25A, B, C and D. These are sales promotion specific monthly budget reports for branded generics and private label generics and sales promotion specific expense analyses for branded generics.

(Off the record discussion.)

Q. If you look at Wilson Exhibit 25A, Mr. Eckmann, can you identify that for me?

A. Budget mats, summary budget mats for sales promotion specific, branded generics from May of '84 through March of '85.

Q. Do you know what the term branded generic means as it's used in these reports?

A. I don't recall at this time what branded generic meant.

Q. Was the responsibility for ensuring that these reports were done accurately in the marketing accountant who worked for Mr. Graas?

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A. That's correct.

Q. And that was Ms. Carter or Ms. Hunter depending upon the time period?

A. Yes.

Q. And they performed that function of ensuring these reports accuracy pursuant to their job duties as marketing accountant?

A. Yes.

Q. They were authorized by Mr. Graas to do so?

A. Yes.

Q. Were these reports prepared and kept in the regular course of Brown & Williamson's business?

A. Yes.

Q. Did individuals in the company rely on the accuracy of these reports?

A. Yes.

Q. Can you tell me at what time a report for a particular month would have been generated?

A. In the first month -- I'm sorry, first week following month end for interim months and in January following the end of the year.

Q. If you will look at Wilson

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Exhibit 25B, Mr. Eckmann, can you identify that for me?

A. This is the detailed budget mat for sales promotion specific expenses, branded, generic category, May of '84, March of '85.

Q. Is this the detailed back up to Wilson 25A?

A. That's my understanding.

Q. Was the responsibility for ensuring that these reports were done accurately also in the marketing accountant, either Ms. Carter or Ms. Hunter?

A. Yes.

Q. That was done as part of their job duties working for Mr. Graas?

A. Yes.

Q. Did Brown & Williamson create and keep these reports that constitute Wilson 25B in the regular course of its business?

A. Yes.

Q. Did individuals in the company rely on the accuracy of these reports?

A. Yes.

Q. Can you tell me when these were created for any particular month?

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A. They would have been created within the first week of the following month for interim months and in the January of the following year for December.

Q. Can you identify Wilson 25C for me, Mr. Eckmann?

A. It's Brown & Williamson's expense analysis for sales promotion specific expenses of branded generic category for July of '84 through March of '85.

Q. Is Wilson 25C a further detailed back up to Wilson Exhibits 25A and 25B?

A. That's my understanding.

Q. Was the responsibility for ensuring that Wilson 25C was prepared accurately in the marketing accountant, either Ms. Carter or Ms. Hunter?

A. Yes.

Q. That was done as part of that person's job duties working for Mr. Graas?

A. Yes.

Q. Were the reports that constitute Wilson Exhibit 25C made and kept in the regular course of Brown & Williamson's business?

A. Yes.

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Q. Did individuals in the company rely on the accuracy of these reports?

A. Yes.

Q. Can you tell me when these reports were generated for any particular month?

A. They would have been generated in the first week following interim month's end and in January following the December year end.

Q. Can you identify Wilson 25D for me, Mr. Eckmann, only up through the period including August 1985 reports?

A. It's the Brown & Williamson monthly budget report for summary for sales promotion specific expenses in private label generic category.

Q. Do you have an understanding as to what the term private label generics means as it's used in these reports?

A. I don't really know what all got included in private label.

Q. Do you have an understanding as to anything that was included in that category?

A. No, I don't have a clear idea of the distinction of what's in here versus other categories.

Q. Do you know whether the year to

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date figures from Wilson 25A for 1985 are incorporated into Wilson 25D, the April 30th report?

A. Yes, they appear to be.

Q. What is the basis for your conclusion that those numbers appear to be incorporated into Wilson 25D?

A. I guess on two bases, one that was my understanding of our intention at the time, and because the numbers add up March year to date plus April month, that goes April year to date.

Q. Thank you. Were the reports that constitute Wilson Exhibit 25D designed to replace the reports that constitute Wilson Exhibits 25A and 25B?

(Off the record discussion.)

(The reporter read the record.)

A. I don't recall the specifics as to whether that was the intention or not, but it certainly appears that they are taking over for these reports starting in April.

Q. These reports referring to 25A and 25B?

A. I'm sorry. Yes.

Q. Do you know whether reports in the form of Exhibits 25A, B and C were prepared after

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March 1985?

MR. PHILLIPS: A, B or C?

MR. CONDREN: And/or C?

MR. PHILLIPS: Were prepared after April?

MR. CONDREN: After March 1985, in that format?

A. I don't believe they were.

MR. PHILLIPS: C, too?

A. I don't believe so. I believe they were similar reports, but not exactly like that.

Q. You believe that there were specific expense analyses done after March 1985 for generics?

A. I guess I was referring more to the other two. I really don't have an awareness one way or the other.

Q. Are you familiar with how rebates were accrued in 1985 for generics?

A. Not in extreme detail. I would -- my recollection is that we accrued the generic rebates based on an estimated expense rate per thousand cigarettes sold.

Q. Were those expenses incorporated into the sales promotion specific reports on that

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basis?

MR. PHILLIPS: Objection to form.

Q. Might be better to look at the generic rather than branded generic.

A. Oh, good idea.

Q. Do we have that anywhere over there? It's Exhibit 24 I believe from Wilson.

MR. PHILLIPS: Which 24, do you know?

MR. CONDREN: A or B.

MR. PHILLIPS: That's B. That's A.

A. A is it.

Q. Which one are we looking at? Is that A or B?

A. This is A. Yes, that's my understanding.

Q. Do you know when rebates were paid to customers of generic cigarettes in 1984 and 1985?

MR. PHILLIPS: Any particular rebates or generally?

Q. Rebates in general pertaining to generics?

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A. In general -- again it's a recollection and not a clear recollection -- I believe they were paid monthly after the -- I'm sorry, quarterly, not monthly, after the end of the quarter.

Q. They would be paid, for example, in April of '85?

A. For the first quarter.

Q. To reflect payments attributable to January, February and March of '85?

A. That's my general understanding, right.

Q. Were rebates accrued in the monthly reports the same way in 1984 for generics as they were in 1985?

A. I don't know for certain. I'm not aware of any changes, but I couldn't say that with certainty.

Q. Were rebates for private label generic cigarettes paid at the same time as rebates for nonprivate label cigarettes in 1984 and '85?

A. I don't know.

Q. If you will look at the June 1985 sales promotion specific report for private label generics --

A. I noted here that they are --

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apparently were amounts accrued. I don't know if the payment schedule was the same.

Q. Do you know whether the regular volume rebate that appears in the June 1985 sales promotion report for private label generics was the only rebate paid for private label cigarettes in 1985 by Brown & Williamson?

MR. PHILLIPS: Where are you again?

A. Here.

Q. Regular volume rebate line on the private label reports. My question is was that the only rebate paid for private labels in 1985?

A. I don't have an awareness one way or the other.

Q. Can you tell me who was responsible to see that Wilson 25D was prepared accurately up to the period including August 1985?

MR. PHILLIPS: When you say including August 1985, you mean the reports prepared in August that reflected July reports -- reports prepared in July -- reflecting August or prepared in September?

Q. I'm referring to the reports that reflect August 1985 expenses.

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MR. PHILLIPS: And were prepared in September?

MR. CONDREN: Whenever they were prepared.

A. That really is beyond when I was there. I was pretty much left at the end of August.

Q. So your testimony then is limited to the --

A. Things that happened through the end of August.

Q. Which would cover the reports of July 1985 expenses?

A. Yeah. Sorry for any confusion.

Q. That's fine. And that would apply to your prior testimony --

MR. PHILLIPS: As to all other exhibits.

Q. -- with respect to the cost sheets and the sales promotion specific reports, et cetera?

A. Right.

Q. All right.

A. What was the question?

Q. The question is can you tell me who was responsible for seeing that the portions of

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Wilson 25D up to and including July 1985 expenses was done accurately?

A. The marketing accountant which would either be -- would have been Frances Hunter during that period.

Q. And Ms. Hunter did that as part of her job duties as marketing accountant?

A. Yes.

Q. Mr. Graas authorized her to do that?

A. Yes.

Q. Were these documents made and kept in the regular course of Brown & Williamson's business?

A. Yes.

Q. Did individuals in the company rely on their accuracy?

A. Yes.

Q. Can you tell me how much time elapsed between the month covered and the date of the preparation of the reports?

A. Less than one week for interim months and less than one month for December.

Q. In the sales promotion specific reports reflecting rebate expenses in 1984 and 1985

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for generics, Mr. Eckmann, did Brown & Williamson adjust those reports after the end of the quarter to reconcile actual payments with accrued payments?

A. It was our intention to do that. As to whether it happened for each quarter I can't say for certain, but it did occur periodically.

Q. Was there an individual who was primarily responsible for adjusting those reports to ensure that actual payments corresponded with the payments reflected in the reports?

A. The marketing accountant.

Q. Do you know how soon after the end of the quarter that would be done?

A. No.

Q. For the year end sales promotion specific reports reflecting rebates, do those year to date figures for 1984 and 1985 reflect actual payments of rebates for those years?

A. Well, I don't know for 1985. For 1984 --

MR. PHILLIPS: Are you talking about as it reflected in the sales promotion specific?

MR. CONDREN: Right.

A. I can't recall when the actual payment was known and the adjustment was made for

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December. Whether that happened before the books were closed or not I don't know.

Q. If it happened before the books were closed, the adjustment would be reflected in the December 1984 report?

A. It would if the analysis were done before the books were closed.

Q. And that means that actual payments would correspond with payments reflected in the year to date, December 1984 figures?

A. Unless there were any adjustments or additional payments required because of errors or something like that, but that general statement is accurate, yes.

Q. Are the books held open longer at the end of 1984 than they are in the interim months?

A. Yes.

Q. Is one of the reasons that that's done to capture all of the actual expense for the year in the year to date reports for December 1984?

MR. PHILLIPS: Objection to form.

A. Yes. That's the reason, to try

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and get the books as close to actual as possible.

(Off the record discussion.)

Q. Are you familiar with a program instituted by Brown & Williamson in 1985 called the Direct Account Incentive Program, Mr. Eckmann?

A. I have some awareness of it, yes.

Q. Can you tell me what your understanding is generally as to what that program entailed?

A. My recollection is that it was a program to make payments to induce people to carry our full, or close to our full line of products to support some of our marginal categories.

Q. Would you include generics as one or those marginal categories?

A. Marginal probably was an unfortunate word choice. I -- it's my recollection that generics were included in it. I don't know if they are included in their entirety or certain styles of generics.

Q. Do you know whether it was a requirement of the program that in order to get payments for that program the customer had to stock generic cigarettes?

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A. No, I don't specifically recall one way or the other.

Q. Let me show you, Mr. Eckmann, what's previously been marked as Wilson Exhibit 35, which is a February 1985 memorandum from T.W. Wilson to Chris Deignan with copies to J.A. Eckmann among others.

A. Okay.

Q. Did you receive this document, Mr. Eckmann, from Mr. Wilson around the time of February 6th, 1985?

A. I remember seeing this document before, yes.

Q. If you will look at the first paragraph, Mr. Wilson notes in part, quote, "I recommend using the January composite accrual rate of .0030 as a temporary method to accrue for these costs."

Can you tell me whether that was the accrual rate that was used to reflect DAIP expenses in Brown & Williamson periodic reports?

A. My recollection is that we started accruing based on that rate, and I don't recall whether it was adjusted subsequently or not to reflect actual experience.

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Q. If you will look on the second page, Mr. Eckmann, could you explain to me how the accrual rate of .0030 that is referenced on Page 1 and that also appears on Page 2 is arrived at?

A. It looks like going through this mechanically that there is two plans, plan A and plan B. The maximum payment or the payment rate adjusted for estimated participation level gives an effective rate to apply to the overall volumee --

Q. In other words, there --

A. -- and that's applied to each of the categories as appropriate to come up with a dollar figures for expense.

Q. In other words, there is a weighted average done between plan A accrual rate and plan B accrual rate based on the percentage of sales distribution appearing in column A to arrive at the .0030 rate?

A. That's a reasonable explanation of it.

Q. Do you know where the percent of sales distribution figures come from that appear in the far left-hand column?

A. No, I don't.

Q. Do you know whether those

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percents were adjusted at any time in 1985?

MR. PHILLIPS: On the stock --

Q. -- for purposes of calculating the DAIP accrual rate?

A. I don't know whether tney were or not. Certainly in the beginning of this process it was our intention to look at actual experience and adjust the rate in the future as appropriate, but I don't know what actually happened.

Q. Can you tell me why the estimated accrual rates for plan B are different from the estimated accrual rates for plan A?

A. They were -- apparently under the nature of the plan were paid a lesser amount for participating in plan B versus A.

Q. Do you know who decided to pay those in plan B a lesser amount than those in plan A?

A. No, I don't know who decided that. One of the difficult things is the exhibit is cut off, and I can't read everything on it.

Q. You mean it's cut off on the far left?

A. Right.

Q. So is the copy I have. All right. We'll try to deal with that.

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A. But even if it weren't cut off, I don't know the answer to your question.

Q. Do the calculations in the lower left-hand corner indicate that there was an estimated participation level of 95 percent for those in plan A?

A. That's my interpretation of what that means.

Q. That means that Brown & Williamson anticipated that 95 percent of its customers falling under the category of distributor or grocery wholesaler would participate in this program?

A. That's the way I read this analysis.

Q. And Brown & Williamson anticipated that 85 percent of those accounts falling under plan B would participate in the plan?

A. That's the way I read the analysis, yes.

Q. Let me show you, Mr. Eckmann, what has previously been marked as Wilson Exhibits 34A, B and C. These are the sales promotion nonspecific monthly budget reports for Brown & Williamson.

If you will look first -- are you finished looking at them?

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A. No.

Q. Sorry. All set?

A. Yes.

Q. If you look first at Exhibit 34A, Mr. Eckmann, can you identify this for me?

A. It's the sales promotion nonspecific summary budget mat for December 1984.

Q. Is there any back up to the summary contained in Wilson 34A?

A. Yes. In some level of detail.

Q. Was this a document that was the responsibility of the marketing accountant to ensure that it was prepared accurately?

A. Yes.

Q. And again that was either Ms. Hunter or Ms. Carter?

A. Yes. It was one or the other.

Q. And this document was prepared and reviewed for accuracy under the supervision of Mr. Graas?

A. Reviewed for accuracy, yes. I'm not sure of the preparation again.

Q. Did Ms. Carter or Ms. Hunter review this document for accuracy as part of her job duties as marketing accountant?

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A. Yes.

Q. She was authorized to do that by Mr. Graas?

A. Yes.

Q. Was this document made and kept in the regular course of Brown & Williamson's business?

A. Yes.

Q. Did the people in the company rely on the accuracy of this document?

A. Yes.

Q. Can you tell me how much time elapsed between the period the document is designed to cover and the time the document was prepared?

A. I'm sure it would have been prepared sometime in January of 1985.

Q. Do you recall when in January it was prepared?

A. I can't say with certainty, but I believe it would have been roughly the middle of the month.

Q. Can you tell me what the line item on Page 1 of Wilson 34A total displays - generics is designed to reflect?

A. Beyond reciting the name of that

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category I really don't know the items that would go into there --

Q. Is the back up --

A. -- other than generic displays.

Q. Is the back up to that line item contained on the fifth page of this exhibit, document number 1624667

A. It gives further information of counter displays and floor displays for generics.

Q. Can you tell me what kinds of items are referred to there under those headings counter displays, generics and floor displays generics?

A. As I understand it, it would be the display piece that was either located on a counter that would hold our generic product or positioned on the floor to hold the generic product.

Q. Do you know what these displays consisted of, what material they were made of?

A. I have never seen them. I don't know.

Q. Are these display expenses that are attributable solely to generics?

MR. PHILLIPS: Objection to form.

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A. I believe that only generics would be displayed in those displays, but that really is under the control of the retailer.

Q. But that was the intention of Brown & Williamson to have these displays used only for generics?

A. I don't really know that for certain, not knowing exactly what the displays look like.

Q. Putting aside the generic displays for the moment, are you aware of any line items in the sales promotion nonspecific reports for December 1984 that are designed to capture expenses attributable to only one brand of cigarette?

MR. PHILLIPS: May I have that one again?

(The reporter read the record.)

MR. PHILLIPS: Object to form.

A. No, I'm not aware of anything necessarily that would relate to a single brand. I believe all our display expenses are in nonspecific.

Q. Can you tell me generally why display items are carried in sales promotion nonspecific?

A. I think for the -- yes,

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generally because they relate to several -- can relate to several brands, and breaking the expense out isn't -- and allocating it isn't worth the trouble.

Q. You mean that a particular display is used generally for more than one brand?

A. It can be. I think in a lot of cases the, you know, display is used for a single brand in a lot of cases.

I'm sure you have seen them in a supermarket where it's a Barclay display, and we don't put Kool in a Barclay display.

Q. Are there instances where display expenses for particular brands were carried in sales promotion specific?

A. I don't know.

Q. If an item is contained in sales promotion nonspecific, Mr. Eckmann, does it go into brand contribution for any particular brand?

A. It's in nonspecific?

Q. Yes.

A. No, it doesn't.

Q. If it's in sale promotion specific for a particular brand, does it go into brand contribution for that brand?

A. Yes. All costs in specific

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would go against the specific brand.

Q. Are there any other line items in the December 1984 sales promotion nonspecific report that you are aware of that are attributable at least in part to generics?

MR. PHILLIPS: Objection to form.

MR. CONDREN: What's your objection?

MR. PHILLIPS: Well, to the extent that they relate to Brown & Williamson, they relate to generics, don't they? I mean, I don't understand your question.

MR. CONDREN: Well, I think display items for brands that are used don't relate at all to generics. They're display items other than generic displays that aren't used for generics, and they've got nothing to do with generics.

MR. PHILLIPS: But I don't know -- my objection is to the use of the word relate to. Can you be more specific?

Q. Were any of these expenses aside from generic displays incurred in part in connection with the sale or distribution of generic cigarettes?

MR. PHILLIPS: Repeat my

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objection.

A. I don't know for sure.

Q. Do you know what the line item on the second page of warehouse and freight expense is designed to reflect?

A. Not really beyond what the account description says.

Q. Does this refer to warehouse and freight expense incurred for display items?

A. I really don't know.

Q. Do you know whether generics were a part of any of the multi brand promotions that appear on the fifth line down on this page?

A. I don't know if they were or not. It's my recollection that they were not, but I don't know that for certain.

Q. If you will look at Wilson Exhibit 34B, Mr. Eckmann, can you identify this for me, please?

A. It's a monthly budget report, sales promotion nonspecific, July 1985.

Q. Was the responsibility for ensuring that this was done accurately in the marketing accountant, either Ms. Carter or Ms. Hunter?

A. Yes. This would have been Ms.

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Hunter.

Q. And she did that as part of her job duties as marketing accountant?

A. Yes.

Q. She was authorized by Mr. Graas to ensure that this document was prepared accurately?

A. Yes.

Q. Was this document made and kept in the regular course of Brown & Williamson's business?

A. Yes.

Q. Did people in the company rely on the accuracy of this document --

A. Yes.

Q. -- in performing their job duties?

A. Yes.

Q. Can you tell me approximately when this document was created?

A. By our normal procedures it would have been prepared in the first week of August 1985.

Q. Do you know whether expenses incurred by Brown & Williamson in connection with the DAIP program are reported in this report?

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Let me ask you a more specific question.

If you turn to Page 3 of this exhibit, document number 162736 it looks like, can you tell me whether expenses for DAIP are contained under the line item distributor incentive rebate on that page?

A. It's my understanding that that's what that line represents.

Q. Do you know what amount of expenses Brown & Williamson incurred in 1985 with respect to that program?

A. No, I don't.

Q. Do you know when payments were made to customers of Brown & Williamson for that program?

A. No. It really -- I believe they occurred after I left there.

Q. If you will look at Page 162738, which is Page 5 of this exhibit, are the expenses incurred for 1985 to date for generic displays reflected under the heading displays - generics?

A. That would be my interpretation of what this means. I don't have any firsthand knowledge of whether they are all included or not.

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Q. Is that what these line items are designed to include?

A. That's my general recollection.

Q. Let me show you, Mr. Eckmann, what's previously been marked as Wilson Exhibit 38. The first page is a memorandum from D.P. Christensen to J.L. Hendricks and others. Second page is a document, appears to be a file note, done by B.E.B. with copies to J.A. Eckmann among others regarding accounting treatment of generic fixtures supplied by B&W.

Turning your attention to the second page, Mr. Eckmann, did you receive a copy of this file note?

A. Yes.

Q. Can you tell me who wrote it?

A. Tony Bacon, the controller.

Q. Did Mr. Bacon write this as part of his job duties as controller?

A. Yes.

Q. Was it the intent of Brown & Williamson's fixture program to gear fixture expense regarding particular customers to the volume of purchases made by that customer?

MR. PHILLIPS: Objection to

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form.

A. Repeat that, please?

(The reporter read the record.)

A. I don't know if that was the intent of the program or not.

Q. Let me show you now, Mr. Eckmann, what's previously been marked as Wilson Exhibit 42. The first page is a memorandum from H.A. Roeder to R.A. Blott and others with a handwritten notation that a copy was given to J.A.E.

The second page is a file note written by B.E.B. regarding the Coins vendor incentive program with a copy to J.A. Eckmann, and the subsequent pages are a memorandum regarding Coins distribution from J.R. Anders to R.A. Blott.

A. Okay.

Q. Turning to the first page of this exhibit, Mr. Eckmann, did you receive a copy of this?

MR. PHILLIPS: By this, you mean the entire document or the first page?

MR. CONDREN: No, the first page?

A. It indicates on there that I did. I don't recall having received a copy, but it's

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likely I did if my initials were on it.

Q. Do you know whose handwriting that is in the top right-hand corner?

A. Tony Bacon's handwriting and my initials there.

Q. If you look at the second page, Mr. Eckmann, did you receive a copy of this file note from Mr. Bacon?

A. Yes.

Q. Do you recall receiving that?

A. Yes.

Q. Do you know whether approximately $250,000 for the Coins vendor incentive program was spent by Brown & Williamson in 1985?

A. I don't know, having left there September 1st.

Q. Was any amount spent as of the time you had left to your knowledge?

A. I really don't recall if any was spent before I left or not.

Q. Do you know why the expenses that were anticipated to be incurred for this program were to be carried in sales promotion nonspecific?

A. My recollection is that in order to qualify for the payment other brand styles had to

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be carried other than Coins in the vending machines.

Q. Do you know what those brand styles were?

A. I think it was any brand styles. I think it could be any other -- it was either two or three brand styles.

Q. Do you know who decided to carry the expense in sales promotion nonspecific? Is that Mr. Bacon's decision?

A. I don't really recall exactly whose decision it was. It's his direction in this memo to do so. I don't know if he was the one that made the decision or not.

Q. Do you know why Mr. Bacon wanted these expenses, quote, specifically itemized so that for generic profitability reporting purposes, specific amounts can be so assigned, unquote?

A. There was some relationship to Coins, and all expenses that had any relationship to generics we were trying to keep track of.

Q. Coins was considered a generic product?

A. For purposes of keeping costs separate I believe it was, yeah.

Q. Do you know where in the sales

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promotion nonspecific reports specifically these expenses were designed to be reflected?

A. Not off the top of my head without looking back to see where they were.

Q. Would it refresh your memory to look at the reports?

A. It might.

A. Back in July -- assist somenow?

MR. PHILLIPS: What?

A. I said does he know where in July it ends?

MR. PHILLIPS: Do you have any suggestions, Jim?

MR. CONDREN: No, I don't have any idea.

A. Okay.

Q. I'm not engaging in the Socratic method here. I don't know.

A. I don't know for sure where it would have been included.

Q. Do you know what general section it would be included in of the sales promotion nonspecific reports, not necessarily any line item, but any section?

A. No. I'd be guessing.

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Q. Do you recall that that $250,000 incentive program was, in fact, approved for Coins?

A. Basically -- on looking at these documents it appears that it was, but that's the only recollection I have is referring to those documents.

Q. Let me show you, Mr. Eckmann, what's previously been marked as Willingham Exhibit 23, which is a compilation of the common operating costs manufacturing reports for Brown & Williamson commencing with June 1984 and going through December 1985.

MR. PHILLIPS: You said going through December '85?

MR. CONDREN: Yes. Should be.

MR. PHILLIPS: Okay.

Q. Can you identify these documents for me, Mr. Eckmann?

A. It's the monthly budget report for common operating costs manufacturing from June of '84 through December of '85.

Q. Do you know who prepared these documents?

A. I don't know who prepared them. I think that the cost department prepared them, but I don't know that for certain.

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Q. They were not prepared by general accounting in any event?

A. No. I didn't say that. It's possible they were prepared by general accounting.

Q. But you don't know for sure?

A. That's right.

Q. Did you receive these documents on a monthly basis when you were assistant controller?

A. I did receive them, yes.

Q. Do you have some familiarity with what these line items are designed to represent?

A. Some general familiarity, yes.

Q. Are you familiar, Mr. Eckmann, with reports generated by Brown & Williamson called V-1's?

A. Do you have one I could see?

Q. Sure. This is Willingham Exhibit 8, which is the V-1 reports for June 1985 through and including December 1985.

A. I don't believe I have ever seen those.

Q. If you will look down on Willingham Exhibit 23 to the line item revaluation direct materials, can you tell me what that line item is designed to reflect?

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A. I don't remember well enough to describe it.

Q. Can you tell me what the next line item was designed to reflect, revaluation of finished goods stocks due to variable cost standard changes?

A. About all I remember is that it is about what it says, revaluing the finished goods due to standard changes.

Q. Does it relate to the fact that as we discussed previously there are often changes in the standard cost of producing cigarettes from the time they are manufactured to the time they are sold and reflected on the cost sheets?

MR. PHILLIPS: Objection to form.

A. It does relate to the revision of standards for finished goods, yes.

Q. Is it designed to reflect the difference in standards between when the goods are manufactured and when they are sold?

A. Not necessarily because they aren't -- this entry isn't based on the sale of these goods.

Q. Do you know how these numbers

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are calculated?

A. No, I don't.

Q. Do you know what kinds of expenses are designed to be included in the line item depreciation, rents, et cetera on this report?

A. Mainly depreciation and rents.

Q. Depreciation on what, do you know?

A. It's my understanding that depreciation on the equipment would be in here.

Q. What kinds of equipment?

A. Manufacturing equipment would be a large item I would guess.

Q. Do you know whether there are any other kinds of equipment for which depreciation expense is collected on this line item?

A. You mean something outside of the factories, is that what your question is?

Q. Something outside of the factories, or something inside of the factory that's not manufacturing equipment, for example, data processing equipment?

A. I don't know the answer to that. It's really prepared out of my area, the entries of that accounting.

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Q. Do you know what the LIFO - casing, filters and wrapping line item represents?

A. I believe that's an estimate of the -- that's recorded monthly to reflect the LIFO adjustment over the course of the year for related wrapping, casing and filter material.

Q. Is that a LIFO adjustment that is designed to reflect the difference between replacement costs and the cost at which these items were purchased?

A. More so than the cost that these items flow through the books on a monthly basis, the difference between that cost and the LIFO cost.

Q. Is that type of expense allocated to particular brands and styles of cigarettes for the purpose of determining variable margin for those cigarettes?

MR. PHILLIPS: Read that one back to me.

(The reporter read the record.)

A. No, I don't believe it is because of the insignificance of it.

Q. If you will look at December 1984, Mr. Eckmann, does this report indicate that there was an expense of that nature in 1984 year to

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date of $960,204?

A. Yes.

MR. PHILLIPS: Where are we?

A. Right here.

Q. Do you know what the LIFO other line item beneath that is designed to represent which has a year to date figure of approximately $1.6 million?

A. I believe that -- and this is my best recollection -- is an entry we recorded to show the impact of bringing the nonLIFO pools onto LIFO prior to actually going through the NBU calculation.

Q. Do you know what types of items that were not previously on LIFO were put on LIFO pursuant to the change to the NBU system?

A. The major ones were labor and overhead, the major elements.

Q. Are you familiar with any report, Mr. Eckmann, that breaks down the depreciation, rents, et cetera, line on the COC report?

A. There is another report that does that, yes.

Q. Did you receive that when you were assistant controller?

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A. Yes.

Can we break shortly whenever you get to a convenient spot?

Q. Okay. Let me just do this one document, and then we can break.

MR. CONDREN: Let's mark for identification Eckmann Exhibit 3, which is the Monthly Budget Report, Schedule D-2A prepared by Brown & Williamson for June 1984 through and including July 1984. And there are no document numbers on this or stamp numbers because it was delivered to me by Mr. Phillips last night.

(Whereupon, Eckmann Exhibit 3 was marked for identification.)

MR. PHILLIPS: The handwritten mark on all of these documents saying confidential is not part of the document, but is put there in lieu of a confidential stamp, which is pursuant to the confidentiality order in effect in this litigation.

MR. CONDREN: Do you want to put stamp numbers on this eventually to memorialize this?

MR. PHILLIPS: Right now we have it as Eckmann 3. Let's just --

MR. CONDREN: Fine with me.

Q. Can you identify Eckmann 3 for

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me, Mr. Eckmann?

A. It's Brown & Williamson Monthly Budget Report showing some detail for depreciation, rents, et cetera, which is part of COC manufacturing.

Q. This is the detailed back up to the depreciation, rents, et cetera, line item on the COC reports?

A. Right.

Q. Do you know who prepared the D-2A schedules that comprise Eckmann Exhibit 3?

A. No.

Q. Do you know whether it was the same department that prepared the COC reports?

A. No, I don't.

Q. I believe you said that you received these D-2A schedules on a monthly basis when you were assistant controller; is that correct?

A. That's correct.

Q. Do you have an understanding as to what kinds of items are contained under the heading amortization on these reports?

A. I guess I would say I received these as an assistant controller, and I don't believe I ever looked at it.

Q. Do you know what kinds of rent

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expenses are contained on this document other than what's apparent on the face of the document?

A. No.

MR. CONDREN: Okay.

MR. PHILLIPS: Off the record.

(Off the record discussion.)

MR. CONDREN: Since Mr. Eckmann has other commitments, he and Mr. Phillips and I have agreed not to go any further today, but Mr. Phillips and Mr. Eckmann have agreed that he will be made available we hope the week following the next one, either in New York or Louisville, depending upon our collective schedules, for a short day of continued examination.

I don't believe it will require a full day, but I think it will require more than just a morning. I think it will be probably sometime into the afternoon assuming we start at a normal time and we take normal breaks.

I would like to reschedule it for the week following next week if we can possibly do that.

MR. PHILLIPS: Again as I told you off the record, we will certainly -- I think that's a good idea to try to reschedule for the week

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following next week. As both Mr. Eckmann has told you and as I have told you, it will depend upon schedules, that we will all have to check.

But we are -- I also wanted to make it understood that, you know, we hope it will be a short day. And one of the reasons this was necessary is that as I understand it you have a great deal more material to cover, and I don't think it would be fruitful to go on till late in the evening tonight, 8:30 or 9:00. Instead I think it will be -- we can spend a very short day finishing this.

MR. CONDREN: Okay. I just want to make sure that Mr. Eckmann will be made available at some time in the near future?

MR. PHILLIPS: Yes. We will work it out. We will work it out.

MR. CONDREN: He will be made available?

MR. PHILLIPS: We will work it out, yes.

MR. CONDREN: Okay.

MR. PHILLIPS: Pursuant to the confidentiality order.

I just want to make sure that we understand that, you know, when we make Mr. Eckmann

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available again, it's a matter of sort of trying to work it in with us and, you know, to our convenient schedules, and it's going to be a short day, and that's what I am expecting.

As I understand what you probably have left -- and as I see across the table you have a lot of document identification left, and I understand that that takes time and everything else, and I think that we will, you know, come back.

But it seems to me that this is not a most pressingomatter, and if it turns out that because of scheduling, which I don't expect it to turn out, but if it turns out that it's not the week after next but the week after that one, I don't want to have a big hassle about this. I think we can work it out to our convenience.

MR. CONDREN: All right. Fair enough.

MR. PHILLIPS: Okay?

MR. CONDREN: Yes.

MR. PHILLIPS: Oh, wait. I need to ask him a question to clear something up.

MR. CONDREN: You want to do cross examination?

MR. PHILLIPS: I just want to go

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one question to clear something up.

MR. CONDREN: One question.

MR. PHILLIPS: Okay. Off the record.

(Off the record discussion.)

(Deposition adjourned.)

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STATE OF KENTUCKY)
COUNTY OF OLDHAM)

I, MARCIA KUCHENBROD, a notary public within and for the State at Large aforesaid, do hereby certify that the foregoing is a true, correct and complete transcript of the deposition of JEFFREY A. ECKMANN, taken at the time and place set out in the caption, including objections and remarks of counsel; that the deposition was taken pursuant to notice; that the said witness was duly sworn before giving his deposition; that the appearances were as set out in the caption hereof; that the said deposition was taken down by me in stenotypy and afterwards transcribed on a computer under my direction.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

Given under my hand as notary aforesaid, this the 30th day of June, 1986.

My commission expires March 14, 1989.

TANNENBAUM, KUCHENBROD & PATEN
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MARCIA KUCHENBROD, C.P.,
Court Reporter and Notary Public
State of Kentucky at Large

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I, the undersigned, JEFFREY A. ECKMANN, do hereby certify that I have read the foregoing deposition and that, to the best of my knowledge, said deposition is true and accurate (with the exception of the following corrections listed below):

JEFFREY A. ECKMANN

TANNENBAUM, KUCHENBROD & PATEN
Louisville, Kentucky 40202
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STATE OF _____

COUNTY OF _____

Before me, the undersigned Notary Public within and for the above-named county and state, on the _____ day of _____, 1986, personally appeared JEFFREY A. ECKMANN and acknowledged the execution of the foregoing document.

My commission expires: _____.

_____

Notary Public

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